

## Sec. 20-17. TFER compliance.

All provisions of this article are to be read and construed in a manner that is consistent with TFER. Any inconsistency between the requirements of this article and TFER shall be resolved in favor of the more restrictive requirement; except that the provisions on reduced-oxygen packaging are to be interpreted based on the Food Code 2013 Recommendations of the United States Public Health Service Food and Drug Administration and USDA/FSIS Time-Temperature Guidance Tables.

## Sec. 20-18. - Definitions.

When used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

\* \* \*

Cut Leafy Greens shall mean fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term “leafy greens” includes iceberg lettuce, romaine lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” does not include herbs such as cilantro or parsley.

*Food service establishment* shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including any retail food store, catering establishment, commissary, delicatessen-type operation that prepares sandwiches intended for individual portions, group residence, bed and breakfast, or any operation that is conducted from a mobile food unit. The term applies regardless of whether the food is intended to be consumed on or off the premises and regardless of whether there is a charge for the food. The term does not include any private home where food is prepared or served for individual family consumption, premises where a food vending machine is located, supply vehicle, institutional premises where only food items packaged or wrapped at an approved location are then delivered for immediate consumption or, except for purposes of division 3 of this article, bed and breakfast limited.

\* \* \*

*Group residence* shall mean a private or public housing corporation or institutional facility that provides living quarters and meals to ten or more persons who are unrelated by blood or marriage and shall include a domicile for unrelated persons, such as a retirement home, a correctional facility, or a ~~long-term~~ health care facility.

\* \* \*

Light-colored shall mean having a 40% or greater light reflectance value (LRV).

\* \* \*

Low risk food establishment shall mean any food establishment which is a packaged-food-only-

food establishment, restricted bar, restricted warehouse, or an establishment that only manufactures and packages ice on premises, or serves only non-potentially hazardous food that is popped, cut, assembled or packaged on the premises, such as candy, popcorn, non-potentially hazardous baked goods, or hand-dipped ice cream.

Medallion shall mean the operating permit affixed to a mobile food unit by the health officer.

*Non-potentially hazardous beverage* shall mean a non-alcoholic liquid intended for consumption, whether natural or synthetic, that does not require temperature control because it is not capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum* and growth of *Listeria monocytogenes*. The term includes:

- (1) Tea and coffee, excluding espresso, with powdered creamer or ultra-high, pasteurized half and half in individual servings;
- (2) Commercially made, high acid beverages with a pH level of 4.6 or below, such as, apple juice, lemonade, limeade, and orange juice;
- (3) Fresh-squeezed, high acid beverages prepared according to department guidelines;
- (4) Commercially filled carbonated beverages;
- (5) High acid beverages made from a commercial mix; and
- (6) Mineral water sold in open, single-service cups with ice from an approved source.

*Potentially hazardous food (PHF)* Time/Temperature Control for Safety Food shall mean a food that requires time/ ~~and~~ temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin production-formation.

- (1) ~~The term~~ Potentially hazardous food (time/temperature control for safety food) includes food of animal origin, including fresh shell eggs, that is raw or heat-treated; food of plant origin that is heat-treated or consists of raw seed sprouts; ~~any~~ cut melons; cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, ~~and any~~ or garlic-in- and-oil mixtures that are not modified in a way so that they are unable ~~results in mixtures that do not~~ to support growth of pathogenic microorganism growth or toxins formation; and except as specified in (2)d(2)e ~~in the introductory paragraph of this definition; and food whose~~ that because of the pH/a<sub>w</sub> interaction of its a<sub>w</sub> and pH values is designated as PHF/TCS Product Assessment Required (PA) in one of the tables listed in Tables 20-18-A or 20-18-B below, unless a product assessment or vendor documentation acceptable to the regulatory authority is provided.

- (2) ~~The term~~ Potentially hazardous food (time/temperature control for safety food) does not include:
- a. An air-cooled hard-boiled egg with shell intact, or an ~~an~~ shell egg with shell intact that is not hard-boiled, but has been ~~treated~~ pasteurized to destroy all viable Salmonellae; ~~and~~
  - b. Any A food ~~whose~~ that because of its pH/ or  $a_w$  value interaction, or interaction of  $a_w$  and pH is designed as non-PHF/non-TCS food in Tables 20-18-A and 20-18-B ~~in subparagraph d [e.] below of this definition;~~
  - c. Any A food, in an unopened hermetically-sealed container, that is commercially-processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
  - d. Any A food ~~for which a~~ that is designated as ~~Product a~~ Assessment Required, in Table 20-18-A or 20-18-B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to: including laboratory evidence demonstrates that the time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and
    - [1] Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulate, or nutrients.
    - [2] Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, ~~of or~~
    - [3] A combination of intrinsic and extrinsic factors; ~~or or~~
  - e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subitems (2)a-d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.
  - ~~e. Any food that does not support the growth of microorganisms as specified in the introductory paragraph of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in this definition. Potentially hazardous food does not include food that, because of pH, water activity ( $a_w$ ) or the interaction of pH and  $a_w$ , is considered non-PHF/non-TCS in Table 20-18-A or 20-18-B of this Code. Guidance for using the tables is provided in the document entitled "Using pH,  $a_w$ , or the interaction of pH and  $a_w$  to Determine If a Food Requires Time/Temperature Control for Safety (TCS)". Copies of the guidance document may be obtained from the department.~~

Table 20-18-A. Control of spores: Product Interaction of pH and  $a_w$  for control of spores in food heat-treated to control destroy vegetative cells and subsequently PACKAGED

Critical $a_w$ Values	Critical pH Values		
	4.6 or less	> 4.6—5.6	>5.6
$\leq 0.92$ or less	non-PHF*/non-TCS <u>food**</u>	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>
> 0.92—0.95	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>	PHF/TCS- <u>PA***</u>
> 0.95	non-PHF/non-TCS <u>food</u>	PHF/TCS- <u>PA</u>	PHF/TCS <u>PA</u>

\*PHF means Potentially Hazardous Food

\*\*TCS food means Time/Temperature Control for Safety Food

\*\*\*PA means Product Assessment Required

~~PHF/TCS means further product assessment is necessary to determine if the food is non-PHF/non-TCS.~~

Table 20-18-B. Control of vegetative cells and spores: Product not heat-treated or heat-treated but NOT PACKAGED. Table 20-18-B Interaction of pH and  $a_w$  for control of vegetative cells and spores in food not heat-treated or heat-treated but NOT PACKAGED

Critical $a_w$ Values	Critical pH Values			
	< 4.2	4.2—4.6	$\geq$ 4.6—5.0	> 5.0
< 0.88	non-PHF*/non-TCS <u>food**</u>	non-PHF/non-TCS <u>food</u>	Non-PHF/non-TCS <u>food</u>	Non-PHF/non-TCS <u>food</u>
0.88—0.90	non-PHF/non-TCS	non-PHF/non-	Non-PHF/non-TCS	PHF/TCS <u>PA***</u>

	<u>food</u>	TCS <u>food</u>	<u>food</u>	
> 0.90—0.92	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>
> 0.92	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>food—PA</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>
<u>*PHF means Potentially Hazardous Food</u>  <u>**TCS food means Time/Temperature Control for Safety Food</u>  <u>***PA means Product Assessment Required</u>				

~~PHF/TCS means further product assessment is necessary to determine if the food is non-PHF/non-TCS~~

\* \* \*

~~Produce shall mean and include all~~ herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes and other edible plant material in their natural state.

\* \* \*

*Ready-to-eat food* shall mean:

- (1) Food in a form that is edible without washing, cooking or additional preparation by the food establishment or the consumer and that is reasonably expected to be in that form;
- (2) Food in a form that is edible without additional preparation to achieve food safety, as specified under sections 20-21.4(c)(1) and 20-21.4(c)(3) of this Code, section 20-21.4(c)(2) of this Code, or sections 20-21.1(b)(8) and 20-21.3(b)(8) of this Code;
- (3) Raw or partially cooked animal food ~~and the consumer is advised for which a consumer advisory is required~~ as specified under section 20-21.4(c)(4) through ~~(8)~~ (7) of this Code;
- (4) Food prepared in accordance with a variance that is granted as specified under sections 20-21.4(c)(4)(b) ~~and 20-21.4(e)(8)~~ of this Code; and that may receive additional preparation

for palatability or aesthetic epicurean, gastronomic, or culinary purposes;

(5) Unpackaged potentially hazardous food that is cooked to the temperature and time required for the specific food under section 20-21.4 of this Code and cooled as specified under section 20-21.3(b) of this Code;

(6) Raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing;

(7) Food presented for consumption for which further washing or cooking is not required and from which rind, peels, husks, or shells have been removed;

(8) Substances derived from plants such as spices, seasonings, and sugar;

(9) Bakery items such as bread, cake, pie, filling, or icing for which further cooking is not required for food safety;

(10) Products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens, such as dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and

(11) Foods manufactured according to 21 CFR 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

\* \* \*

*Reduced oxygen packaging.*

(1) Reduced oxygen packaging shall mean:

a. The reduction of Packaging in which the amount of oxygen in a package ~~has been reduced~~ by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the ~~surrounding, 21%-oxygen~~ atmosphere; ~~and (approximately 21% at sea level); and~~

b. A process Packaging as specified in subitem a of item (1) of this subsection that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control ~~is identified as a microbiological hazard~~ in the final packaged form.

(2) Reduced oxygen packaging shall include:

a. Vacuum packaging, in which air is removed from a package and the package is hermetically sealed so that a vacuum remains inside the package; ~~such as sous vide;~~

b. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from the air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the

food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; ~~and~~

c. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.;

~~d. Except as specified in item (3) of this subitem definition, eCook chill packaging, in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed, the bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotropic pathogens.;~~~~or~~

~~e. Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotropic pathogens.~~

~~3. Reduced oxygen packaging shall not include:~~

~~a. Placing product in a bag and sealing it immediately prior to or after, cooking, cooling, or reheating the product as long as the product is:~~

~~[1] Labeled with the time and date the product is place in the bag; and~~

~~[2] Removed from the bag within 48 hours of the time the product is placed in the bag.~~

\* \* \*

TCS shall mean time and temperature control for safety food.

**Sec. 20-19. - Applicability of article; compliance; penalty for violation; variances, etc.**

Nothing in this article shall be construed as requiring the health officer to report minor violations of this article for prosecution whenever the health officer believes the public interest will be adequately served in the circumstances by a warning.

(a) . . . . .

(f) *HACCP plan requirements.*

(1) *When a HACCP plan is required.*

a. ~~Except as specified in Sections 20-21.4 (c)(8), 20-21.4(i)(2)b[9]e, and 20-21.4 (i)(2)(b)(11), b~~~~BB~~Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the health officer for approval a properly prepared HACCP plan as specified under item (2) of this subsection and the relevant provisions of this article if:

[1] Submission of a HACCP plan is required according to law;

[2] ~~Except for foods that are cooked using sous vide and cook chill reduced oxygen packaging methods as specified in Section 20-21.4(l)(2)b[10][9][b]2, A~~ A variance is required as specified under section 20-21.4(c)(4)b of this Code regarding cooking raw animal foods, section 20-21.4(m)(l) of this Code regarding specialized processing methods. or section 20-21.10(p) of this Code regarding molluscan shellfish tanks; or

[3] The health officer determines that a food preparation or processing method requires a variance based on an inspectional finding or a variance request.

b. ~~Before engaging in reduced oxygen packaging without a variance as specified under 20-21.4(l)(2), a food establishment shall submit a properly prepared HACCP plan to the regulatory authority. A food establishment shall have a properly prepared HACCP plan which is submitted to the regulatory authority prior to implementation as specified under section 20-21.4(m)(l)(2)b of this Code regarding reduced oxygen packing criteria, Clostridium botulinum and Listeria monocytogenes controls, and reduced oxygen packaging criteria without a variance.~~

(2) *Contents of a HACCP plan.* For a food establishment that is required under item (1) of this subsection to have a HACCP plan, the plan and specifications shall include:

a. A categorization of the types of potentially hazardous foods that are specified in the menu, such as soups and sauces, salads, and bulk, solid foods, such as meat roasts, or of other foods that are specified by the regulatory authority;

b. A flow diagram by specific food or category type identifying critical control points and providing information on the following:

[1] Ingredients, materials, and equipment used in the preparation of that food; and

[2] Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

c. A food employee and supervisory training plan that addresses the food safety issues of concern;

d. A statement of standard operating procedures for the plan under consideration, clearly identifying:

[1] Each critical control point;

[2] The critical limits for each critical control point;

[3] The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

[4] The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;

[5] Action to be taken by the person in charge if the critical limits for each critical control point are not met; and



[6] Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

e. Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(3) *Critical violations, time frame for correction.* A food establishment shall, at the time of inspection, implement corrective actions as specified in TFER 229.171 (I)(1)(2) and verify and document corrections as specified in TFER 229.171 (I)(2)(A)(B).

## **Sec. 20-20. - Inspections; reports.**

- (a) ~~(a)~~—The health officer shall inspect each food establishment within the city at least once every 12 months, except that low risk food establishments shall be inspected at least once every 24 months, and he shall make as many additional inspections as are necessary for the enforcement of this article, based on the public health risks posed by the establishment and the establishment's past compliance history. Inspections may also be made where consumer complaints and/or reports of foodborne illness outbreaks evidence a need to perform inspections.
- (b) ~~(b)~~The health officer or agents of the health officer, after presentation of proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this article. The health officer or agents of the health officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. The person in charge shall demonstrate knowledge.
- (c) ~~(c)~~Whenever an inspection is made of a food establishment, the findings shall be recorded on an inspection report form provided for this purpose, and a copy of the inspection report shall be provided to the person in charge of the establishment, who shall be responsible for posting the report upon an inside wall of the establishment. The inspection report so posted shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the department.
- (d) ~~(c)~~ Upon completion of any inspection, the health officer shall post at every food establishment a placard of a design and in a location as determined by the health officer. The placard shall reveal the final score of the just completed inspection. The placard shall be posted so as to be clearly visible to the general public and to patrons entering the food establishment. The placard shall not be defaced, marred, camouflaged, hidden, or removed by any person except the health officer.
- (d) The inspection report form shall specify a specific time by which each violation must be corrected; provided, however, the notice shall not relieve any person of criminal or civil penalties for the violations.
- (e) ~~(e)~~ In the case of temporary food service establishments, all violations shall be corrected at the time of the inspection unless an extension is allowed by the health officer. In determining whether to allow an extension and the length of the extension, the health officer shall consider the degree of risk, if any, that is posed by the violation and the time reasonably required to correct it. No extension shall

- be granted where any significant risk of foodborne illness is posed to the public. If violations are not corrected within the specified time limit, the health officer shall immediately suspend the permit.
- (f) ~~(f)~~ The report of inspection shall state that failure to comply with any time limits for corrections will require that the establishment immediately cease food service operations.
- (g) ~~(g)~~ Whenever a reinspection is required by the health officer or requested by the permit holder to determine that conditions responsible for the reinspection no longer exist, the permit holder shall pay the reinspection fee stated for this provision in the city fee schedule, and the permit or permits shall not be renewed until the permit holder has paid any outstanding reinspection fees. The health officer shall conduct a reinspection within a reasonable period of time.
- (h) ~~(h)~~ Whenever a food establishment is required to cease operations under the provisions of this section, it shall not resume operations until a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. The health officer shall conduct a reinspection within a reasonable period of time.
- (i) ~~(i)~~ Food from food establishments outside the jurisdiction of the city may be sold within the city if the food establishments conform to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with any substantially equivalent provisions, the health officer may accept reports from responsible authorities in other jurisdictions where the food establishments are located. Where reports cannot be obtained or there is some question regarding their validity, the city may request the food establishment in question to permit an inspection as provided in subsection (b) above. If the food establishment in question refuses to permit an inspection after the director of public health has determined the necessity for the inspection, he shall bar the sale of food from that food establishment within the city. The cost of inspections of food establishments outside the city shall be borne by the food establishment.
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#### **Sec. 20-21.1. - Food supplies.**

(a) *General. . . .*

(b) *Special requirements.*

(1) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by applicable laws. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(2) Fresh and frozen shucked molluscan shellfish shall be packed in nonreturnable packages that bear a legible label identified with the name and address of the original shellstock processor, shucker-packer, or repacker, the certification number issued according to law, and the "sell by" date for packages of less than 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more. A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information as specified shall be subject to detention. Molluscan shellfish may not be removed from the container in which they

were received, other than immediately before sale or preparation for service. For display purposes, shellstock and shucked shellfish may be removed from the container in which they were received and held in a display container maintained at 41°F, and a quantity specified by the consumer may be removed from the display or display container and provided to the consumer if the source of the shellfish on display is identified in accordance with federal law and the shellfish are protected from contamination. For the purposes of display, **only**, shellstock may be displayed on drained ice. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers according to TFER 229.164(d)(4)(A-D). Shellstock shall be obtained and identified as specified in TFER 229.164(c)(8). When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish and broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded. Each container of unshucked shellstock shall be identified by an attached tag that states the name and address of the original shellstock processor, the kind and quantity of shellstock, and an interstate certification number issued by the state or foreign shellfish control agency.

(3) *Shellstock tags.*

a. Except as specified under item [2] of this paragraph, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

b. The identity of the source of shellstock that are sold or served shall be maintained by retaining a shellstock tag or label for 90 calendar days from the date the container is emptied by:

[1] Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

[2] If shellstock are removed from their tagged or labeled container:

[a] Preserving source identification by using a record keeping system as specified under subitem [1] of this item; and

[b] Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from a container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.

(4) Only clean and sound shell eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs, or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Restricted eggs shall not be used. Raw shell eggs shall be received and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less, except that shell eggs that have been specifically processed to destroy all viable Salmonella shall be exempt from this requirement. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in TFER 229.164(b)(1)(G) and shall be stored in refrigerated equipment as specified in this section. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.

a. Pasteurized eggs or egg products shall be substituted for raw shell eggs in the

preparation of foods:

[1] Such as Caesar salad, hollandaise or ~~barnaise~~ béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, ~~and~~ egg fortified beverages, and other similar foods; and

[2] That are not cooked as specified in Table 20-21.4-1 of this Code; and

[3] Not included under section 20-21.4(c)(4) of this Code.

b. In a food establishment that serves a highly susceptible population, pasteurized shell eggs or, pasteurized liquid, frozen or dry eggs or egg products shall be substituted for shell eggs in the preparation of foods:

[1] Such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, ~~and~~ egg fortified beverages, and other similar foods; and

[2] Except as specified in section 20-21.2(a)(2)e of this section, recipes in which more than one egg is broken and the eggs are combined. This part [2] does not apply if:

[a] The raw eggs are combined immediately before cooking for one consumer serving at a single meal, cooked as specified under section 20-21.4(c)(1)a of this Code, and served immediately, such as for an omelet, souffle, or scrambled eggs;

[b] The raw eggs are combined as an ingredient immediately before baking and the egg mixture is thoroughly cooked to a ready-to-eat form such as in a cake, muffins, or bread; or

[c] The preparation of the food is conducted under a HACCP plan that;

{1} Identifies the food to be prepared;

{2} Prohibits contacting ready to eat food with bare hands;

{3} Includes specifications and practices that ensure:

a Salmonella Enteritidis growth is controlled before and after cooking; and

b Salmonella Enteritidis is destroyed by cooking the eggs according to the time and temperature as specified in 20-21.4(c)(1)b of this Code;

{4} Contains the information specified in section 20-19(f)(2)d including procedures that:

a Control cross contamination of ready to eat food with raw egg; and

b Delineate cleaning and sanitizing procedures for food-contact surfaces; and

{5} Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be

used.

(5) All frozen desserts such as ice cream, soft frozen desserts, soft serves, ice milk, slush, noncarbonated fruit-flavored frozen desserts, frozen carbonated beverages, snow cones, sherbets, and their related mixes shall meet the standards of quality established for the products by applicable laws and regulations.

(6) All food manufactured, processed, or packaged in commercial food processing establishments or commissaries shall be labeled according to all applicable laws as defined in TFER 229.164(p), (q) and (r).

(7) Game animals and exotic animals will be approved for sale or service only as authorized by TFER 229.164(b)(7).

(8) Fish may not be received for sale or service unless commercially and legally caught or harvested, or unless their sale or service is otherwise approved by the health officer. Fish, other than molluscan shellfish and tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), that are intended for consumption in their raw form shall be frozen as specified under section 20-21.3(b)(8) of this Code. The fish may be frozen either by the supplier or on the premises of the food establishment, and records of the freezing shall be retained at the food establishment for 90 calendar days beyond the time of service or sale of the fish. If the fish are frozen on the premises, then the person in charge shall record the freezing temperature to which the fish are subjected and the duration of such subsection and shall retain the records as specified in this paragraph; if the fish are frozen by a supplier, a written statement from the supplier stipulating that the fish supplied were frozen as required shall be accepted.

(9) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified as defined in TFER 229.164 (c)(4)(D).

(10) *Juice, treated.*

a. Pre-packaged treated juice shall (i) be obtained from a processor with a HACCP system as specified in TFER 229.164(c)(10)(A), (ii) be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in TFER 229.164(c)(10)(B), or (iii) bear a warning label as specified in TFER 229.164(c)(10)(C).

b. Juice packaged in a food establishment shall be treated under a HACCP plan as specified in section 20-19(f)(2)b-d to attain a 5-log reduction, which is equal to 99.999% reduction, of the most resistant microorganism of public health significance or, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance, shall be labeled as specified in section 20-21.1(a) of this Code and bear the phrase "WARNING": This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems".

c. In a food establishment that serves a highly susceptible population, the following criteria shall apply to juice:

[1] For the purposes of this subitem c only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible population;

[2] Prepackaged juice or prepackaged beverage containing juice that bears a warning label as specified in subitems a and b of this item may not be served or offered for sale; and

[3] Unpackaged juice that is prepared on premises for service or sale in a ready to eat form shall be processed under a HACCP plan as specified in TFER 229.164(u)(1)(C).

(11) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in section 20-21.4(c)(3) of this Code shall be:

a. Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef; or

b. Deemed acceptable by the regulatory authority based on other evidence, such as written buyer specification or invoices, that indicate that the steaks meet the definition of whole-muscle, intact beef; and

c. If individually cut in a food establishment:

[1] Cut from whole-muscle intact beef that is labeled by a food processing plant as specified under subitem a of this item or identified as specified under subitem b of this item;

[2] Prepared so they remain intact; and

[3] If packaged for undercooking in a food establishment, labeled as specified under subitem a of this item or identified as specified under subitem b of this item.

(12) Meat or poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for human consumption shall be labeled to include safe handling instructions as specified in TFER 229.164(b)(1)(F).

(13) If a temperature other than 41°F (5°C) for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the temperature specified in such law.

(14) Wild mushrooms.

a. Except as specified in subparagraph (b) of this paragraph, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

b. This section does not apply to:

[1] Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

[2] Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

**Sec. 20-21.2. - Food protection.**

(a) *General. . . . .*

(b) *Cross contamination . . . .*

(c) *Preventing contamination by employees' hands.*

(1) Food employees shall wash their hands as specified under section 20-21.8(a) of this Code.

(2) Except when washing fruits and vegetables as specified under section 20-21.4(b) of this Code or as specified in item (4) of this subsection, food employees may not contact exposed, ready-to-eat foods with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment to handle such ready-to-eat foods.

(3) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(4) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat foods with their bare hands if:

a. Documentation is maintained at the food establishment that food employees acknowledge that they have received training in:

[1] The risks of contacting the specific ready-to-eat foods with bare hands;

[2] Proper handwashing as specified under section 20-21.8(a) of this Code;

[3] When to wash their hands ~~us-as~~ specified under section 20-21.8(a) of this Code;

[4] Where to wash their hands as specified under section 20-21.8(b) of this Code;

[5] Proper fingernail maintenance as specified under section 20-21.8(a) and (g) of this Code;

[6] Prohibition of jewelry as specified under section 20-21.8(g) of this Code;

[7] Good hygienic practices as related to sections 20-21.7(a)(2) and 20-21.9(a) through (e) of this Code; and

[8] Employee health policies that detail how the food establishment complies with section 20-21.7 of this Code;

b. Documentation is maintained at the food establishment that food employees contacting

ready-to-eat foods with bare hands utilize two or more of the following control measures to provide additional safeguards against hazards associated with bare hand contact:

- [1] Double hand washing;
- [2] Use of nail brushes;
- [3] Use of a hand sanitizer after hand washing as specified under section 20-21.8(d) of this Code;
- [4] Incentive program that assists or encourages food employees not to work when they are ill, such as paid sick leave; or
- [5] Other control measures approved by the health officer; and

c. Documentation is maintained at the food establishment that corrective actions are taken when subitems a and b of this item are not followed.

(d) *Emergency occurrences . . . .*

**Sec. 20-21.3. - Food storage.**

(a) *General. . . . .*

(b) *Refrigerated storage.*

(1) *Refrigeration facilities.* Equipment for cooling and holding cold food shall be sufficient in number and capacity to provide food temperatures as specified under item (9) of this subsection.

Each mechanically refrigerated facility storing potentially hazardous food shall be provided with numerically scaled indicating thermometer, accurate to 3°F if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of the mechanically refrigerated unit and designed to be easily readable. Recording thermometers, accurate to 3°F if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to  $\pm$  (1.5°C) in the intended range of use.

(2) *Rapid cooling temperatures.* Potentially hazardous food requiring refrigeration after cooking shall be rapidly cooled to an internal temperature of 45°F (7°C) or below as specified under part b of item (9) below or to 41°F (5°C) or below with cooling occurring within the following parameters:

- a. An initial rapid cooling from 135°F (57°C) to 70°F (21°C) within two hours; and from 135°F (57°C) to 41°F (5°C) or below, or to 45°F (7°C) or below within a total of six hours as specified under subitem b of item (9) of this subsection.
- b. To 45°F (7°C) or below as specified under subitem b of item (9) of this subsection or to 41°F (5°C) or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
- c. Except as specified in subitem d of this item, if received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in



20-21.1(b)(13) of this Code, to 45°F (7°C) as specified under subitem b of item (9) of this subsection or to 41°F (5°C) or below within 4 hours.

d. Raw shell eggs shall be received as specified under section 20-21.1(b)(3)(4) of this Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

(3) *Methods for rapid cooling.* Potentially hazardous foods that require cooling shall be rapidly cooled in accordance with the time and temperature criteria specified under item (2) of this subsection by utilizing methods such as shallow pans, agitation, quick chilling, separating the food into smaller or thinner portions, using rapid cooling equipment, using containers that facilitate heat transfer, adding ice as an ingredient, water circulation external to the food container; or other effective methods. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45°F (7°C) or below as specified under subitem b of item (9) of this subsection or 41°F (5°C) or below unless maintained in accordance with item (2) of subsection (c) of this section regarding hot storage of potentially hazardous food. The person in charge shall ensure that employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling.

(4) A food that is labeled frozen and shipped frozen by a processing plant shall be received frozen and be kept frozen.

(5) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, but may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

(6) All perishable food shall be stored at temperatures that will protect against spoilage.

(7) Frozen foods prepared in any food service establishment once thawed shall not be refrozen.

(8) *Cold storage of certain fish.* Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen to a temperature of -4°F (-20°C) or below for 168 hours (7 days) in a freezer; or frozen until solid at -31°F (-35°C) or below and stored at -31°F (-35°C) or below for 15 hours, except for tuna species specified under section 20-21.1(b)(8) of this Code.

(9) *Cold storage of foods.* Except during preparation, cooking or cooling, or when time is used as the public health control as specified under section 20-21.2(a)(2) of this Code, potentially hazardous food shall be maintained:

a. At 41°F (5°C) or below; or

b. At 45°F (7°C) or below, if and only to the extent authorized by TFER 229.164(4)(o)(6)(B)(ii). Refrigeration units shall be upgraded or replaced as and within the time provided in TFER.

(10) *Date marking of ready-to-eat foods.*

a. The following definitions apply to the provisions of this item and item (11) of this subsection:

*Disposition date* shall mean the date or day by which a ready-to-eat potentially hazardous food shall be consumed, sold or disposed of.

*Opening /preparation date* shall mean the date counted as day 1 that a ready-to-eat potentially hazardous food is prepared or that a container of ready-to-eat potentially hazardous food is opened.

*Refrigerated-hold time* shall mean the length of time that a ready-to-eat potentially hazardous food was held refrigerated before being frozen, counting the commencement date.

- b. Except when packaging food using a reduced oxygen packaging method as specified in 20-21.4 (l)(2) of this Code and except as specified in this subitem, each refrigerated ready-to-eat, potentially hazardous food prepared and held refrigerated in a food establishment for more than 24 hours and, except for subitems d-g i of this item, each container of refrigerated ready-to-eat potentially hazardous food prepared and packaged by a food processing plant that is opened in a food establishment shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means to indicate the date or time the original container is opened in a food establishment and, if held for more than 24 hours, to indicate the date and time by which the food shall be consumed on the premises, sold, or discarded, based on the following temperature and time combinations:

[1] The seventh calendar day after the opening/preparation date, counting the opening/preparation date, if the food is maintained at 41°F (5°C) or below; or

[2] The fourth calendar day after the opening/preparation date, counting the opening/preparation date, if the food is maintained at 45°F (7°C) or below as specified under subitem b of item (9) of this subsection.

The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

- c. A refrigerated, ready-to-eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in subitem b of this item or by an alternative method acceptable to the health officer.
- d. Alternative date marking systems must receive prior approval from the health officer.
- e. Subitem b of this item does not apply to cheeses that are maintained under refrigeration as specified in TFER 229.164(o)(7)(E).
- f. Subitem b of this item does not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.
- g. Subitem b of this item does not apply to the following when the face has been cut, but the remaining portion is whole and intact:

[1] Fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and retain the original casing on the product;

[2] Shelf stable, dry, fermented sausages; and

[3] Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated."

h. Subitem b of this item does not apply to cultured dairy products, as defined in TFER 229.164(o)(7)(H), Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in item (9) of this subsection.

i. Subitem b of this item does not apply to preserved fish products, such as pickled herring, dried or salted cod, and other acidified fish products defined in TFER 229.164(o)(7)(I).

j. A refrigerated, ready-to-eat, potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(11) *Disposition of ready-to-eat foods.*

a. Except the time that the product is frozen, any food that exceeds either of the temperature and time combinations, specified under item (10) of this subsection shall be discarded.

b. Any food specified under item (10) of this subsection in a container or package that does not bear a date or day marking, color-coded marks, or other effective means to indicate the date or time the original container was opened, shall be discarded.

c. Any food specified under item (10) of this subsection that is appropriately marked with a date or day marking or signal that indicates a temperature and time combination that is in excess of those specified under item (10) of this subsection shall be discarded.

(c) *Hot storage . . . .*

**Sec. 20-21.4. - Food preparation.**

(a) *General. . . .*

(b) *Raw fruits and raw vegetables. . . .*

(c) *Cooking potentially hazardous foods.*

(1) *Time and temperature specifications.* The person in charge shall ensure that employees are properly cooking potentially hazardous food and being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under section 20-21.10(f) of this Code. Except as specified under Tables 20-21.4-1, 20-21.4-2, and 20-21.4-3 and 20-21.4((1)(2)b[49]9[b]2 of this section, raw animal foods, such as eggs, fish, meat, or poultry, and foods containing any of these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

- a. 145°F (63°C) or above for 15 seconds for:

[1] Raw shell eggs that are broken and prepared in response to a consumer's order for immediate service; and

[2] Except as specified under subsections (b) and (c) of this section and in Tables 20-21.4-2 and 20-21.4-3, fish, meat, and pork, including game animals and exotic animals commercially raised for food as specified under TFER 229.164(b)(7)(A)(i) and 229.164(b)(7)(B)(i), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 229.164(b)(7)(B)(ii).

- b. 155°F (68°C) for 15 seconds or the temperature specified in Table 20-21.4-1 that corresponds to the holding time for:

[1] Ratites and injected meats;

[2] The following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food as specified under TFER 229.164(b)(7)(A)(i) and (b)(7)(B)(i), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 229.164(b)(7)(B)(ii); and

[3] Raw eggs that are not prepared as specified under subitem a[1] of this item; or

- c. 165°F (74°C) or above for 15 seconds for:

[1] Poultry, game animals and exotic animals as specified under TFER 229.164(b)(7)(A)(iii) and 229.164(b)(7)(B)(iii) and (iv);

[2] Stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffed ratites; or

[3] Stuffing containing fish, meat, poultry, or ratites.

(2) *Special additional requirements for microwave cooking.* In addition to the temperature and time requirements in the second column of Table 20-21.4-1 of this Code, raw animal foods cooked in a microwave oven shall be:

a. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

b. Covered to retain surface moisture;

c. Heated to a temperature of at least 165°F (74°C) in all parts of the food; and

d. Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

**(3)** *Raw, rare or partially cooked foods.* Raw or undercooked whole-muscle, intact beef steak may be served or offered for sale if it meets the requirements in Table 20-21.4-1 of this Code.

(4) Except as specified in items (3) and (8) of this subsection, a raw animal food, such as raw eggs, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food, such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steak as specified in item (3) of this subsection, may be served or offered for sale upon

consumer request or selection in a ready-to-eat form if:

- a. The consumer is informed as specified in item (5) of this subsection that to ensure its safety the food should be cooked as specified under subsection (c)(1) of this section; or
- b. The department grants a variance from subsection (c)(1) of this section as specified under section 20-19(e) of this Code based on a HACCP plan that:

[1] Is submitted by the permit holder and approved as specified under section 20-19(e)(1) of this Code

[2] Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

[3] Verifies that equipment and procedures for food preparation and training for food employees at the food establishment meet the conditions of the variance.

(5) *Consumer advisory.* Except as specified in items (3) and (8) of this subsection, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in items (6) and (7) of this subsection, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(6) Disclosure shall include:

- a. A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)", "raw-egg Caesar salad", and "hamburgers (can be cooked to order)"; or
- b. Identification of the animal-derived foods in a menu or other listing by asterisking them to a footnote that states that the items are served raw or undercooked or contain (or may contain) raw or undercooked ingredients.

(7) Reminder shall include asterisking the animal-derived foods that require disclosure in a menu or other listing to a footnote that states that:

- a. Written information regarding the safety of these items is available upon request;
- b. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness; or
- c. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness, especially if you have certain medical conditions.

~~(8) A food establishment that packages potentially hazardous food (time/temperature control for safety food) that will be served in facilities providing food to highly susceptible populations using a reduced oxygen packaging method as specified in subsection (l)(2) shall have a HACCP plan that contains the information specified under section 20-19 (f)(2)(d) and that is provided to the department for review and approval prior to implementation.~~

(8)(8) The following foods may not be served or offered for sale in a ready-to-eat form in a

food establishment serving a highly susceptible population:

- a. Raw animal foods, such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;
  - b. A partially cooked animal food, such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and
  - c. Raw seed sprouts.
- (d) *Dry milk and dry milk products.* Reconstituted dry milk and dry milk products may only be used in instant desserts and whipped products or for cooking and baking purposes.
- (e) *Liquid, frozen, or dry eggs and egg products.* Liquid, frozen, or dry eggs and egg products shall be used only for cooking and baking purposes.
- (f) *Reheating for hot holding.*
- (1) *Time and temperature specifications.* Potentially hazardous foods that were cooked and then refrigerated shall be reheated rapidly to the temperature and for the applicable time specified in the third column of Table 20-21.4-1 of this Code before being served or placed in a hot food storage facility. The temperature of the food shall reach the minimum temperature specified in the table within two hours from the removal of the food from refrigeration.
  - (2) *Hot holding facilities not for rapid reheating.* Steam tables, bainmaries, warmers, and similar hot food holding facilities shall not be used for the rapid reheating of potentially hazardous foods.
  - (3) *Additional requirements for reheating in microwave oven.* Food reheated in a microwave oven for hot holding shall be reheated so that the food is covered and either rotated or stirred during reheating; the food shall then be allowed to stand covered for two minutes after reheating.
  - (4) *Sealed or packaged food.* Ready-to-eat food taken from a commercially-processed, hermetically-sealed container or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant shall be heated to a temperature of at least ~~140°F~~ 135°F (~~60°C~~) (57°C), for hot holding.
- (g) *Preparation for immediate service.* Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature, as requested by the customer.
- (h) *Nondairy products.* Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 45°F (7°C) or below as specified under section 20-21.3(b)(9)b of this Code or to 41°F (5°C) or below within four hours after preparation.
- (i) *Temperature measuring device, food.* Food temperature measuring devices accurate to  $\pm 2^{\circ}\text{F}$  in the intended range of use shall be provided and used to assure attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods if the thermometers are scaled only in Fahrenheit. If the thermometers are scaled in Celsius or dually scaled, they shall be accurate to  $\pm 1^{\circ}\text{C}$  in the intended range of use. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and kept readily accessible to accurately measure the temperature in thin foods, such as meat



patties and fish fillets.

(j) *Thawing potentially hazardous foods.* Except as specified in item (5) of this subsection, potentially hazardous foods shall be thawed:

(1) In refrigerated units at a temperature not to exceed 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C);

(2) Completely submerged under potable running water of a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow, provided the temperature of the thawed portions of potentially hazardous food shall not remain above 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C) for more than four hours, including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 41°F (5°C) as specified in section 20-21.3(b)(9)a of this Code, or 45°F (7°C) as specified in section 20-21.3(b)(9)b of this Code;

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven;

(4) As part of the conventional cooking process; or

(5) Using any other safe procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

(k) Potentially hazardous food, slacking. Frozen potentially hazardous food that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at 41°F (5°C) or below, at 45°F (7°C) as specified under section 20-21.3(b)(9) of this Code, or at any temperature if the food remains frozen.

~~(m)~~(l) *Specialized processing methods.*

(1) *Variance requirement.* A food establishment shall obtain a variance from the department as specified in section 20-19(e)(1) of this Code before:

a. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

b. Curing food;

c. Using food additives or adding components such as vinegar ~~except as specified in 20-21.4(l)(2)(b)(9)(b) 5c;~~

[1] As a method of food preservation rather than as a method of flavor enhancement;  
or

[2] To render a food so that it is not potentially hazardous food (time/temperature control for safety food);

d. Packaging potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method ~~except as specified under item (2) of this subsection~~

where ~~a barrier to~~ the growth of and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes in addition to refrigeration exists; and except for short term reduced oxygen packaging as specified under item [9](e); are controlled as specified in (2) of this subsection.

- e. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;
- f. Custom processing animals that are for personal use as food and not for sale or service in a food establishment;
- g. Preparing food by another method that is determined by the regulatory authority to require a variance; or
- h. Sprouting seeds or beans in a retail food establishment.

(2) Clostridium botulinum and Listeria monocytogenes controls, reduced oxygen packaging criteria without a variance.

a. Except for a food establishment that obtains a variance as specified under item (1) of this subsection, a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method where shall control the growth of and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes. ~~are~~ is identified as a microbiological hazard ~~s~~ in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of C. botulinum and growth of Listeria monocytogenes.

b. A food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method where that shall control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes and, except for short term reduced oxygen packaging as specified under [9](e)11] of this section, is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under section 20-19(f)(2)(b) and (d) of this Code, and that:

- [1] Identifies the food to be packaged; and
- [2] ~~Limits the food packaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:~~ Except as specified in [sub-items [8] – [10] of this section, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:

- [a] Has an aw of 0.91 or less;
- [b] Has a pH of 4.6 or less;
- [c] Is a meat or poultry product cured at a food processing plant regulated by the USDA or the department using substances specified in 9 CFR § 424.21, Use of food ingredients and sources of radiation, and is received in an intact package; or
- [d] Is a food with a high level of competing organisms such as raw meat, ~~or~~ raw poultry; or raw vegetables;

~~[3] Specifies methods for maintaining food at 41°F (5°C) or below;~~

~~[43]~~ Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:



- [a] Maintain the food at 41°F (5°C) or below; and
- [b] ~~For food held at refrigeration temperatures, d~~ Discard the food ~~if~~ within 14 30 calendar days of its packaging ~~if~~ it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
- [54] Limits the refrigerated shelf life to no more than 14 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or ~~not past~~ the original manufacturer's "sell by" or "use by" date, whichever occurs first;
- [6 5] Includes operational procedures that:
  - [a] Prohibit contacting ready-to-eat food with bare hands as specified in 20-21.2(c)(2);
  - [b] Identify a designated area and the method by which:
    - 1 Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
    - 2 Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
  - [c] Delineate cleaning and sanitization procedures for food-contact surfaces; ~~and~~
  - ~~[d] If pH is used as a barrier to growth of Clostridium botulinum and Listeria monocytogenes such as in 20-21.4(l)(2)(b)[9][b]5c, delineate equilibrium pH measurement, instrument calibration, and record keeping procedures.~~
- [76] Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
  - [a] Concepts required for a safe operation;
  - [b] Equipment and facilities; and
  - [c] Procedures specified under part [6 5] of this subitem and section 20-19(f)(2)(b) and (d) of this Code.
- [8 7] Is provided to the regulatory authority prior to implementation as specified under section 20-19(f)(1)(b).

~~(3) [898]~~ Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

~~[940 [9]]~~ Except as specified in ~~[898]~~ and ~~[e]~~ [11] of this subitem section, a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a cook-chill or sous vide process shall:

- ~~[a] Implement a HACCP plan that contains the information as specified in section 20-19(f)(2)(d) of this Code. Provide to the regulatory authority prior to implementation, a HACCP plan that contains the information as specified under section 20-19(f)(2)(b) and (d).~~
- ~~[b] Ensure that the food is:~~
  - ~~1 Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer.~~
  - ~~2 Cooked to heat all parts of the food to a temperature and for a time as specified in 20-21.4(c) or cooked in a scheduled process for a continuous time-temperature combination as specified in Appendix 1 of and 2. Products :~~

[http://www.fsis.usda.gov/OPPDE/rdad/FSISNotices/RTE\\_Poultry\\_Tables.pdf](http://www.fsis.usda.gov/OPPDE/rdad/FSISNotices/RTE_Poultry_Tables.pdf)

~~3 Protected from contamination before and after cooking as specified in Sections 20-21.2(a)(1) Protecting food from potential contamination, 20-21.2(a)(3) Protecting food from unapproved additives, 20-21.2 (b) Protecting food from cross contamination, 20-21.2 (c)Protecting food from contamination by employee's hands, 20-21.10 (a)(8) Glove use, and 20-21.11(a)(9) tasting spoons.~~

~~4 Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below (135°F) 57°C.~~

~~5 Cooled to 41°F (5°C) in the sealed package or bag as specified in section 20-21.3(b)(2) and:~~

~~a Cooled to 34°F(1°C) within 48 hours of reaching 41°F(5°C) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging; or~~

~~b. Held at 41°F (5°C) or less for no more than 7 days, at which time the food must be consumed or discarded; or~~

~~c Held at 41°F (5°C) or less and has an equilibrium pH of 5.0 or less, verified by a properly calibrated digital pH meter, and held at 41°F (5° C) or less until consumed or discarded within 30 days after the date of packaging;or~~

~~edc Held frozen with no shelf life restriction while frozen until consumed or used.~~

~~6 Held in a refrigeration unit that is equipped with an electronic system that continuously monitors and records time and temperature, such as thermocouple data loggers that connect with thermocouple probes, or similar technology, and is visually examined for proper operation twice daily,~~

~~7 If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices as specified in paragraph 6 of this section to ensure that times and temperatures are monitored during transportation; and~~

~~8 Labeled with product name and date packaged; and~~

~~[c] Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are met as part of the HACCP plan and:~~

~~1 Make such records available to the department upon request, and~~

~~2 Hold such records for at least 6 months; and~~

~~[d] Implement written operational procedures as specified under item 1 of this paragraph as specified in (l)(2)(b)[65] of this subitem and a training program as as specified in (l)(2)(b) [76] of this subitem specified under item 2 of this paragraph.;~~

~~1 [6 5] Includes operational procedures that:~~

- [a] Prohibit contacting ready-to-eat food with bare hands;
- [b] Identify a designated area and the method by which:
  - [1] Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
  - [2] Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
- [c] Delineate cleaning and sanitization procedures for food-contact surfaces;
- [d] If pH is used as a barrier to growth of *Clostridium botulinum* and *Listeria monocytogenes* such as in 20-21.4(l)(2)(b)[9][b]5c, delineate equilibrium pH measurement, instrument calibration, and record keeping procedures.
- 2 [76] Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
  - [a] Concepts required for a safe operation;
  - [b] Equipment and facilities; and
  - [c] Procedures specified under part [6 5] [d]1 of this subitem and section 20-19(f)(2)(b) and (d) of this Code.

~~[e] No HACCP plan or variance shall be required of a food establishment that packages and stores potentially hazardous food (time/temperature control for safety food) using reduced oxygen packaging methods for short term storage which includes the following:~~

- ~~1. Placing the product in a bag and sealing it immediately prior to or after, cooking, cooling or reheating the product as long as the product is:~~
  - ~~a. Held at 41° F (5° C) or less;~~
  - ~~a. Labeled with the time and date the product is placed in the bag;~~
  - ~~b. Removed from the bag within 48 hours of the time product is place in the bag.~~

~~[10]. Except as specified under [11] of this subsection, A a food establishment that packages cheese using a reduced oxygen packaging method shall:~~

~~[a] Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses;~~

~~[b] Have a HACCP plan that contains the information specified in section 20-19 (f)(2)(b) and (d) of this Code, and as specified in subsections (l)(2)(b)[1], (l)(2)(b)[3][a], (l)(2)(b)[6] [5] and (l)(2)(b)[7][6], of this Section.~~

~~[c] Labels the package on the principal display panel with a “use by” date that does not exceed thirty (30) days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first: and~~

~~[d] Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.~~

[11] A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package potentially hazardous food (time/temperature control for safety food) that is always:

\_\_\_\_\_ [a] Labeled with the production time and date,

\_\_\_\_\_ [b] Held at 41°F (5°C) or less during refrigerated storage, and

\_\_\_\_\_ [c] Removed from its package in the food establishment within 48 hours after packaging.

~~[11] When applying a reduced oxygen packaging process, food establishments shall notify the Department in advance and indicate the method proposed (i.e. cook-chill, sous vide).~~

**TABLE 20-21.4-1.  
Cooking Potentially Hazardous Foods**

Food	Cooking Temperature & Time and Instructions	Reheating Minimum Temperature & Time (minimum temperature to be reached within 2 hours)
•Fruits and vegetables cooked for hot holding	<del>140°F (60°C)</del> <del>135°F (57°C)</del>	165°F (74°C) for 15 seconds
•A raw or undercooked whole muscle, intact beef steak, not served in a food establishment serving a highly susceptible population and labeled to indicate that it meets the definition of whole muscle intact beef as specified in section 20-21.1(b)(11) of this Code	Shall be cooked on both the top and bottom to a surface temperature of 145°F (63° C) or above and a cooked color change is achieved on all external surfaces.	
<ul style="list-style-type: none"> <li>•Raw animals foods not specified below</li> <li>•Raw shell eggs that are broken and prepared for immediate service</li> <li>•Fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program that are not specified below</li> </ul> Pork	145°F (63°C) for 15 seconds	165°F (74°C) for 15 seconds

<ul style="list-style-type: none"> <li>•Ratites</li> <li>•Injected meats</li> <li>•Any of the following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program</li> <li>•Raw shell eggs not prepared as specified above</li> </ul>	155°F (68°C) for 15 seconds; or 150°F (66°C) for 60 seconds; or 145°F (63°C) for 180 seconds; or 158° F (70°C) for less than 1 second (instantaneous)	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> <li>•Poultry other than ratites</li> <li>•Game animals and exotic animals that are live caught and are subjected to a voluntary inspection program</li> <li>•Stuffed fish/meat/poultry/pasta/ratites</li> <li>•Stuffing containing fish/meat/poultry/ratites</li> </ul>	165°F (74°C) for 15 seconds	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> <li>•Whole beef roast,</li> <li>•Whole corned beef roast</li> <li>Whole pork roast and cured pork roast</li> </ul>	Shall be cooked in an oven that is preheated to and held at the temperature specified for the roast's weight and the type of oven, as applicable, in Table 20-21.4-2 of this Code and shall be cooked so that all parts of the roast are heated to the temperature and for the holding time that corresponds to that temperature in Table 20-21.4-3 of this Code	Unsliced portions, if cooked in accordance with Cooking Temperature and Time, at left, may be reheated in the same manner
•Raw animal foods cooked in a microwave oven and allowed to stand for two minutes	165°F (74°C) and allowed to stand for two minutes	165°F (74°C) for 15 seconds
•Ready-to-eat food taken from hermetically-sealed container or intact package from an inspected food processing plant	—	135°F (57°C) without time duration

**TABLE 20-21.4-2.**

**Cooking Whole Beef or Corned Beef- Meat Roasts including Beef, Corned Beef, Lamb, Pork, and Cured Pork Roasts Such as Ham-Oven Preheating/Holding Requirements by Weight**

Oven Type	Oven temperature based on ROAST weight	
	Less than 10 lbs. (4.5 Kg)	10 lbs. (4.5 Kg) or more
STILL DRY	➤350°F (177°C) or more	250°F (121°C) or more

CONVECTION	325°F (163°C) or more	250°F (121°C) or more
HIGH HUMIDITY @	250°F (121°C) or more	250°F (121°C) or more
@ Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity		

**TABLE 20-21.4-3.**

**Cooking Whole Beef or Corned Beef Meat Roasts including Beef, Corned Beef, Lamb, Pork, and Cured Pork Roasts Such as Ham Roasts-  
Heating Temperatures and Holding Times**

Temperature		Time in Minutes @	Temperature		Time in Seconds @
°C	°F		°C	°F	
54.4	130	112	63.9	147	134
55.0	131	89	65.0	149	85
56.1	133	56	66.1	151	54
57.2	135	36	67.2	153	34
57.8	136	28	68.3	155	22
58.9	138	18	69.4	157	14
60.0	140	12	70.0	158	0
61.1	142	8			
62.2	144	5			
62.8	145	4			
@ Holding time may include post-overheat heat rise.					

**Sec. 20-21.10. - Equipment and utensils.**

(a) *Materials; general . . . .*

(f) *Temperature and pressure measuring devices.* Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to  $\pm 2^{\circ}\text{F}$  in the intended range of use if scaled only in Fahrenheit. If a food temperature measuring device is scaled only in Celsius or dually scaled in Celsius and Fahrenheit, it shall be accurate to  $\pm 1^{\circ}\text{C}$  in the intended range of use. Temperature and pressure measuring devices shall be maintained in good repair and calibration. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. Food temperature measuring devices shall have a numerical scale, printed record, or digital readout in increments no greater than  $2^{\circ}\text{F}$  ( $1^{\circ}\text{C}$ ) in the intended range of use. Ambient air and water temperature measuring devices that are

scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to  $\pm 1.5^{\circ}\text{C}$  in the intended range of use. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to  $\pm 3^{\circ}\text{F}$  in the intended range of use. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used.

(p) *Molluscan shellfish tanks.* . .

**Sec. 20-21.11. - Equipment and utensil cleaning and sanitation.**

(a) *Cleaning frequency* . . . . .

(b) *Sinks.* Each food establishment shall have a three-compartment sink in addition to the hand-washing sinks required under section 20-21.19 of this Code except that:

~~(1) — A mobile food unit may have a two-compartment sink; and~~

~~(2)~~(1) A food establishment that has a two-compartment sink that was installed before three-compartment sinks were required under this article may continue to use the two-compartment sink until the sink becomes worn and requires replacement, the establishment changes ownership or the kitchen is remodeled, if:

- a. The establishment demonstrates that it has an acceptable procedure for utensil sanitization; and
- b. The establishment either does not use tableware or provides single-service tableware to its patrons.

~~(3)~~(2) No utensil-washing sink shall be required in a packaged-food-only food establishment or where otherwise not required based on standard operating procedures as approved by the department.

(c) Sink Compartments. Each compartment of each sink shall be provided with hot and cold running water. Each compartment of any sink required by this article shall not be less than 15 inches in length, 15 inches in width, and 12 inches in depth, unless the operator of the food establishment can demonstrate the ability to totally immerse and sanitize all utensils and equipment in the existing utensil-washing sink or unless other suitable equipment is provided for washing, rinsing and sanitizing the utensils and equipment. A utensil-washing sink approved for the immersion and sanitization of the establishment's utensils that measures less than 15 inches in length and width, and 12 inches in depth shall only be approved so long as all utensils found on the premises of the food establishment can be demonstrated to be totally immersed and sanitized. All sinks must comply with plumbing regulations as set forth in section 20-21.17 of this Code. Sink compartments shall have rounded internal angles and be free of sharp corners or crevices. Any sink required by this article for a mobile food unit used by a vendor licensed under article IX of chapter 32 of this Code or for a fixed location mobile food unit shall be of an adequate size so as to permit the total immersion of all utensils used on the unit as determined by the health officer, except that all other unrestricted mobile food units



may have a three-compartment sink with each compartment measuring no less than 12 inches in length, 14 inches in width, and 12 inches in depth.

~~(e)~~(d) *Wiping cloths.*

- (1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.
- (2) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 20-21.12(e)(2) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.
- (3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 20-21.12(e)(2) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

**Sec. 20-21.13. - Mechanical cleaning and sanitizing.**

(a) . . . .

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. Wash and pump rinse temperatures shall be measured in the respective tanks and final rinse temperature shall be measured both at the entrance of the manifold and at dish level. Testing of the final rinse temperature will be done by means of a registering thermometer or heat sensitive indicating paper traveling through the final rinse chamber in the same manner as equipment and utensils, at the dish level during a normal rinse cycle. The flow pressure of the fresh hot water sanitizing rinse in the dishwashing machine may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve. Except for dishwashing machines that use only pumped or recycled sanitizing rinse, the machine shall be equipped with a pressure gauge or similar device that measures and displays the water pressure at a point in the supply line immediately before the point where the water enters the dishwashing machine. The temperature of fresh hot water sanitizing rinse as it enters the manifold may not be less than 165°F (74°C) nor more than 194°F (90°C) for a stationary rack, single temperature machine, and for all other machines, not less than 180~~2~~°F (82°C) nor more than 194°F (90°C).

\* \* \* \*

(k) . . . .

**Sec. 20-21.17. - Plumbing.**

(a) *General.* . . .

(d) *Grease traps.* Grease traps shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be of an approved type and in an approved location outside the establishment~~-, unless it is impossible.~~

\* \* \* \*



(g) *Other liquid wastes and rainwater.* . . .

**Sec. 20-21.19. - Hand-washing sinks generally.**

(a) *Hand-washing sink installation.* . . . .

(b) *Hand-washing sink faucets.* Each hand-washing sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited. Hand-washing sinks in facilities providing custodial care for preschool age children that are used only by the children may provide only cold running water.

\* \* \* \*

(g) *Hand-washing signage.* . . . .

**Sec. 20-21.20. - Garbage and refuse.**

(a) *Containers.* . . .

(h) *Maintaining refuse areas and enclosures.* A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer used ~~or~~ as specified in Section 20-21.28(a)(3) and clean.

**Sec. 20-21.21. - Insect and rodent control.**

(a) *Controlling pests, generally.* . . .

(b) *Openings.* Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by filling or closing holes and other gaps along floors, walls, and ceilings; tight-fitting, self-closing doors, kept closed, closed windows, screening, properly designed and installed air curtains to control flying insects, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the inch (16 mesh to 25.4 mm). Exterior doors used as exits need not be self-closing if they are: solid and tight-fitting; designated by the fire protection authority that has jurisdiction over the food establishment for use only when an emergency exists; and limited-use so they are not used for entrance or exit from the building for purposes other ~~that~~ than the designated emergency exit use. Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(d) *Removing dead or trapped birds, insects, rodents, and other pests.* . . .

**Sec. 20-21.23. - Wall and ceilings generally.**

(a) *Maintenance.* . . .

(b) *Construction.* The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, food storage areas, food display areas, equipment-washing and utensil-washing areas, ~~toilet rooms, and vestibules~~ shall be light-colored, smooth, nonabsorbent,

and easily cleanable except for ceilings over areas used only for beverage preparation and/or service. The walls, including nonsupporting partitions and wall coverings of toilet rooms and vestibules, shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface except in dry storage areas.

(c) *Retail food stores and warehouses.* The ceilings of consumer display areas where only packaged containerized food products, single-service articles or single-use articles are stored or displayed in retail food stores and the ceilings of bulk food storage areas in warehouses and retail food stores shall be light-colored, nonabsorbent, and easily cleanable.

(d) *Wall protection.* The walls within water closet compartments, walls within two feet of the front and sides of urinals, hand-washing sinks, utensil-washing sinks, food sinks, and mop or utility sinks, and walls subject to damage from moisture shall be provided to a height of at least four feet above the finished floor with a smooth, ~~light-colored~~, impervious surface of a type not adversely affected by moisture or grease. The walls behind and adjacent to cooking equipment utilizing a ventilation hood, shall, from the floor to the base of the hood, have the same type of material as indicated above for plumbing fixtures. Materials utilized for wall protection shall be fiber-glass reinforced plastic (FRP), nonferrous metal, ceramic tile, plastic laminate or the equivalent for the purpose intended.

\* \* \* \*

(i) *Cleaning physical facilities.* . . .

#### **Sec. 20-22. - Mobile food units and commissaries.**

(a) *Definitions.* . . .

\* \* \* \*

(c) *Issuance of medallions for operation of mobile food units.*

(1) *Medallions.* All mobile food units shall obtain a medallion from the department prior to operating. Operation of a mobile food unit without a medallion is prohibited.

(2) *Submission of plans.* Prior to the issuance of a medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall provide the following to the department:

a. A written standard operating procedure for each mobile food unit that must include provisions for:

[1] Food unit's waste water disposal site and process; and

[2] Other servicing operations details; and

b. Two sets of drawings that must clearly specify and address the proposed layout, surface finish schedule, arrangement and construction material of the mobile food unit, and that must include, without limitation, the proposed layout, arrangement and sizes of plumbing fixtures and connections.

The provisions of this item (2) shall not be applicable to renewals, provided that the applicant

certifies in writing to the health officer that the previously provided procedures and plans are still valid.

(3) *Locations of operation.* Prior to the issuance of any initial or renewal medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall submit to the department a list of locations where the mobile food unit will be in operation. The operator shall also give written notice at least two business days prior to beginning operations at or relocating operations to any location not currently included on the list of active locations submitted to the department.

(4) *Operation on private property.* Prior to the issuance of a medallion or renewal, the operator of a mobile food unit that will be operated on private property for more than one hour in a single day shall submit to the department proof of ownership of the property or a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the mobile food unit at the proposed location. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

(5) *Access to toilets.* Prior to the issuance of a medallion or renewal, the operator of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to be operated on private property shall submit to the department proof of availability of restrooms with flushable toilets for the use of the mobile food unit employees located in a business establishment within 500 feet of each location where the mobile food unit will be in operation for more than 1 hour in any single day. Proof of availability of adequate facilities shall be in the form of a written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, and the type of business and hours of operation, granting permission for use of the facilities. If the business owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The toilet facilities described in this documentation shall be available for use by the mobile food unit employees during all times that the mobile food unit is operational. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

(6) *Signage.* Every mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the units, in letters not less than three inches in height.

(7) *Mobility.* A mobile food unit must demonstrate mobility at any reasonable time if requested by any peace officer or health officer.

(8) *Use of LP-gas.* The operator of a mobile food unit in, on or in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for the use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection and/or copying upon the request of any peace officer, fire department employee, or health officer.

(d) *Sanitation.* In addition to complying with the requirements of this section, all mobile food units shall comply with the following items of sanitation:

(1) *Single-service articles.* Mobile food units shall provide only single-service articles for use by the consumer.

(2) *Water systems.* A mobile food unit, other than a restricted operations mobile food unit, shall have a potable water system under pressure-meeting the requirements of Sec .20-21.15( c ). All water used in connection with the mobile food unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than ~~30~~ 40 gallons capacity for conventional mobile food units and not less than 5 gallons capacity for units used by a vendor licensed under chapter 32, article IX of this Code and for fixed location mobile food units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-washing, in accordance with the requirements of this article. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing and potable water tanks shall be constructed of materials meeting standards established by an American National Standards Institute (ANSI) or other approved accredited certification program and installed according to the requirements of this article. Connection to a water system at an operational location is prohibited. The water system shall comply with the following additional items:

a. *Tank design and construction.* A mobile food unit's water tank shall be enclosed from the filling inlet to the discharge outlet and sloped to an outlet that allows complete drainage of the tank.

b. *Tank inspection and cleaning port, protected and secured.* If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

[1] Flanged upward at least 13 mm (one-half inch);

[2] Equipped with a port cover assembly that is provided with a gasket and a device for securing the cover in place; and

[3] Flanged to overlap the opening and sloped to drain.

c. *"V" type threads, use limitation.* A fitting with "V" type threads on water tank inlets or outlets shall be allowed only when a hose is permanently attached.

d. *Tank vent, protected.* If provided, a water tank vent shall terminate in a downward direction and shall be covered with;

[1] A screen of 16 mesh to one inch or equivalent when the vent is in a protected area; or

[2] A protective filter when the vent is in an area that is not protected from wind blown dirt and debris.

e. *Protective cover or device.* A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for each water inlet, outlet, and hose.

(3) *Mobile food establishment water tanks, when required.* Materials that are used in the construction of a mobile food unit water tank and appurtenances shall be safe, durable, corrosion-resistant, and nonabsorbent, and finished to have an easily cleanable surface.

a. *Tank hose, construction and identification.* A hose used for conveying drinking water from a water tank shall be safe; durable, corrosion-resistant, and nonabsorbent; resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition; finished with a smooth interior surface; and clearly and durably identified as to its use if not permanently attached.

b. *Tank filter, compressed air.* A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and the drinking water system when compressed air is used to pressurize the water tank system.

c. *Mobile food unit tank inlet.* A mobile food unit water tank inlet shall be 19.1 mm (three-fourths inch) in inner diameter or less and provided with a hose connection of the size or type that will prevent its use for any other service.

d. *Operation and maintenance system flushing.* A water tank, pump, and hoses shall be flushed and sanitized at an approved commissary before being placed in service after construction, repair, modification, and periods of nonuse.

e. *Using a pump and hoses; backflow prevention.* An individual shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

f. *Protecting inlets, outlets, and hose fittings.* If not in use, a water tank and hose inlet and outlet fittings shall be protected using a cover or device as specified in sub-item g below.

g. *Tank, pump, and hoses; dedication.* A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

(4) *Waste retention.* If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed vented retention tanks that are at least 15 percent larger than the water supply tank. A mobile food unit waste retention tank shall be sloped to an outlet that allows complete drainage of the tank during servicing operations. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion or at an operational location. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system. Connection to a sewerage system at an operational location is prohibited.

(5) *Garbage and refuse.* A mobile food unit shall have adequate and approved garbage and refuse storage facilities for the operator's use and shall have garbage and refuse storage facilities attached to the exterior of the mobile food unit that are insect and rodent-proof for customers' use. Disposal shall be in accordance with section 20-21.20 of this Code.

(6) *Damage report.* Any accident involving a mobile food unit shall be reported within 24 hours of the time the accident occurred if the accident results in damage to the water system, waste

retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of this section. Reports shall be made by the holder of the mobile food unit medallion.

(7) *Operation capacity limited.* The operator of a mobile food unit shall prepare, serve, store and display food and beverages on or in the mobile food unit itself and shall not attach, set up or use any other device or equipment intended to increase selling, serving, storage, or display capacity of the mobile food unit. It shall be unlawful for the operator of a mobile food unit to:

- a. Allow items, such as but not limited to brooms, mops, hoses, equipment, containers and boxes or cartons, to remain adjacent to or beneath the mobile food unit;
- b. Provide or allow any sign or banner to remain that is not attached to and solely supported by the mobile food unit;
- c. Provide or allow any canopy, awning or other covering that is not attached to and solely supported by the mobile food unit to remain over any part of the mobile food unit or over any area within 100 feet of the mobile food unit, except that any awning or covering provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile food unit shall not be considered a violation of this subsection;
- d. Provide or allow any portable toilet facility within 100 feet of the mobile food unit; and
- e. Provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and stand up counters, within 100 feet of the mobile food unit unless otherwise stated in this subsection ~~when operating on private property. Any dining area that is provided by the mobile food unit operator and removed when the mobile food unit is not in operation shall be acceptable. It shall be lawful for a mobile food unit to provide a dining area on private property if it is removed when the mobile food unit is not in operation and there is written permission from the private property owner. Dining areas or seating areas adjacent to fixed location mobile food units operating inside of an enclosed space such as a mall or lobby or park vending units~~ where the seating is provided by someone other than the mobile food unit operator and only incidentally or coincidentally used by the patrons of the mobile food unit are allowed ~~acceptable if approved by the health officer.~~

(8) *Utility connections.* Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code. Utility connections for water, sewerage and gas are prohibited.

(9) *Exterior surfaces.* Exterior surfaces of mobile food units shall be of weather-resistant materials and shall comply with all applicable laws.

(e) *Servicing of mobile food units by commissaries; servicing records.*

(1) *Servicing by commissaries.* Mobile food units, other than restricted service mobile food units, shall operate from a commissary approved by the health officer and shall report to such location for supplies, cleaning, and servicing operations as follows:



- a. Fixed location mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.
- b. Licensed park vendor mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.
- c. All other mobile food units shall return to the commissary for the performance of all servicing operations within the 24-hour period preceding operations. Valid servicing records issued in accordance with Sec. 20-22 (f)(4)(b)(5) from an approved commissary must be presented to the health officer prior to the initial or renewal medallion inspection or upon reinspection following a cease food service operation.

(2) *Servicing records.* It shall be unlawful for an operator of a mobile food unit, other than a restricted service mobile food unit, to be in operation without a valid servicing record in his possession.

(3) *Servicing records to be kept by mobile food unit operators.* The operator of a mobile food unit, other than a restricted operations mobile food unit, shall keep and maintain servicing records on the mobile food unit for a period of one year from the date of servicing. The servicing records must be immediately available to any peace officer or health officer for inspection and copy at the mobile food unit during the mobile food unit's hours of operation.

(4) *Servicing records to be kept by commissaries.* The commissary from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit in a manner and form prescribed by the health officer. The permit holder, person in charge, employee, or representative of any commissary shall keep and maintain servicing records at the commissary for a period of two years from the date of servicing or until retrieved by the health officer, whichever comes first. Servicing records maintained at the commissary shall be immediately available to any peace officer or health officer for inspection and copying during normal business hours.

(5) *Falsification of servicing records.* It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary to issue a servicing record without first verifying that the mobile unit has complied with all servicing requirements. It shall be unlawful for any owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with this subsection.

(6) *Maintenance of servicing records.* The health officer may promulgate rules and procedures regarding maintenance of the servicing records by the commissaries and mobile food units. The health officer may require the use of electronic or other technology to facilitate or monitor compliance with the requirements of this chapter.

(f) *Commissaries.*

(1) *Permitting of commissaries as food establishments.* A commissary servicing any mobile food unit, other than a restricted service mobile food unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the mobile food unit utensil-washing sink.

(2) *Permitting of commissaries as food dealers.* A commissary shall acquire and maintain a valid food dealer's permit and meet all requirements of this article including, but not limited to:

- a. Maintenance of proper structures pursuant to section 20-21.28 of this Code;
- b. Issuance and maintenance of servicing records and maintenance of equipment pursuant to subsection 20-22(c) and (h) of this Code; and
- c. Compliance with all other applicable rules and operational guidelines as may be promulgated by the health officer.

(3) *Private residences.* Use of a private residence as a commissary is prohibited.

(4) *Commissary servicing area and operations.*

a. An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. The servicing area shall be at an approved location and constructed and operated in compliance with the requirements of this article. Fixed location mobile food units authorized under this article and mobile food units licensed under article IX of Chapter 32 of this Code shall be stored in the servicing area except while in operation for food service and during transport to and from the service building. A fixed location mobile food unit that does not fully meet the foregoing storage requirements and was first operated under a medallion on or before February 13, 2000, shall be exempt from this requirement provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination and provided that the permit holder uses alternative storage arrangements that are approved by the health officer.

b. *Servicing operations.*

[1] Potable water-servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

[2] The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with section 20-21.16 of this Code. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.

[3] Vehicle cleaning and in-place cleaning of nonfood-contact surfaces of equipment not requiring sanitization shall be done with potable water and shall be done in a manner that will not contaminate the vehicle's food storage or food preparation areas or equipment. If hoses are used in the cleaning process, they shall be food-grade and kept off the floor or pavement, on racks or by other approved suitable means, and the system shall meet the requirements of section 20-21.17 of this Code. All cleaning areas shall be paved with a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an approved catch basin or floor drain where the liquid waste can be disposed of in accordance with the requirements of section 20-21.16 of this Code.

[4] The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is



prohibited. Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.

[5] Servicing operations may be performed by the commissary operator or by the mobile food unit operator. It shall be the commissary operator's responsibility to observe or perform servicing on each mobile food unit and properly complete a servicing record as prescribed by the health officer. It is the responsibility of the mobile food unit operator to confirm that the requirements of this section are fulfilled prior to resuming operations.

(g) *Special requirements for mobile food units operated by licensed park vendors.* In addition to complying with the other applicable requirements of this chapter, a mobile food unit operated by a vendor licensed under article IX of chapter 32 of this Code, must meet the following requirements:

(1) A unit shall not exceed four feet in width, eight feet in length and eight feet in height including the unit's shade umbrella. In the event of an emergency, the unit must be easily movable, controllable, and maneuverable by one person when the unit is fully loaded. A unit shall have at least two operable ~~rubber or rubber-like~~ wheels, ~~that are less than eight inches in diameter.~~ The bottom of the unit shall be at least ~~one foot six (6) inches~~ from the ground. The unit shall be non-motorized.

(2) Each unit shall have protective glass guards and a roof or a shade umbrella to protect against exposure to insects, rodents, dust, or other contamination. Each unit shall have ample space available on the sides of the unit to display the prices of food, the name and street address of the vendor, and the medallion issued under section 20-37 of this Code.

(3) Each unit shall have a litter receptacle attached to the unit available, clearly marked, and maintained for patron use. This litter receptacle shall ~~have not less than a twenty-gallon capacity and shall~~ be composed of a leak-proof, nonabsorbent material.

(4) The interior of a unit shall be equipped with cabinet units or compartments. All food-contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food-contact surface. Units that will dispense beverages must be equipped to do so from a closed carbonation system or bulk dispensing units or to distribute packaged beverages.

(h) *Special requirements for fixed location mobile food units.* A mobile food unit that does not meet all criteria applicable to the permitting of a conventional mobile food unit may be permitted on a fixed location only basis, provided:

(1) The unit complies with the same criteria stated in items (1), (2), (3) and (4) of subsection (g) above for units operated by licensed park vendors;

(2) The unit shall be restricted to operation on the premises of one food establishment that holds a valid permit under this article, and the commissary serving the unit shall be located in that establishment; and

(3) The commissary shall meet all applicable requirements of state law and city ordinances.

A fixed location mobile food unit that does not fully meet the requirements of item (1) of subsection

(g) above and was first operated under a medallion on or before February 13, 2000, shall be exempt from the requirements of item (1) of subsection (g) above provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination.

If the operator of the unit is not the operator of the food establishment, then the operator shall be required to furnish written proof of permission of the person who operates the food establishment premises to utilize the unit and commissary on the premises. In the event that the permit issued under this article for the food establishment on whose premises the unit and its commissary are situated expires without timely renewal or is revoked or suspended, the unit's medallion shall automatically be suspended until and unless the permit for the food establishment is restored to valid status.

(i) *Alternatives; waivers.* The director of health and human services or any assistant or deputy director may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a mobile food unit. Any authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director of health and human services or any assistant or deputy director may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the mobile food unit. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

(j) *Enforcement of this article.* Failure by a mobile food unit or a commissary to comply with the requirements set forth in this article or rules promulgated by the health officer shall be unlawful and may result in one or more of the following penalties:

- (1) Immediate cessation of operations;
- (2) The suspension or revocation of the mobile food unit's medallion or the food dealer's permit for that commissary pursuant to sections 20-41 and 20-42 of this Code;
- (3) The issuance of a citation for a class C misdemeanor pursuant to subsection 20-19(c) of this Code for every day of noncompliance;
- (4) The filing of a criminal charge under § 37.10 of the Texas Penal Code for the offense of Tampering with Governmental Record; and
- (5) The filing of a suit in district court by the city attorney to enjoin a food service establishment from operating without a permit or a medallion if a permit or medallion is required.

(k) *Additional offense.* It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to remove, disable or otherwise tamper with any electronic technology installed to facilitate or monitor compliance with the requirements of this chapter.

#### **Sec. 20-23. - Temporary food service.**

(a) *General.* A temporary food service establishment shall comply with the requirements of this article,

except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment and may prohibit the sale of some or all potentially hazardous foods where the action is reasonably necessary to protect the public from foodborne illness.

(b) *Restricted operations.*

(1) This section is applicable whenever a temporary food service establishment is permitted, under the general requirements in this section, to operate without complying with all the requirements of this article.

(2) Only those potentially hazardous foods requiring limited preparation shall be prepared.

(3) All food temperature requirements shall be met as pertained in sections 20-21.2 through 20-21.5 of this Code.

(c) *Items of sanitation.* All temporary food service establishments shall comply with the following items of sanitation:

(1) *Item 1. Ice.* Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use food grade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used it shall be dispensed in a way that protects it from contamination.

(2) *Item 2. Equipment.*

a. Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination.

b. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for the equipment shall be provided.

c. All equipment, including hot/cold food storage facilities, shall be adequate in number and capacity to provide food temperatures as specified in section 20-21.2(a)(1) of this Code and must meet the requirements of this article regarding food storage and equipment design and fabrication.

d. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(3) *Item 3. Single-service articles.* All temporary food service establishments that do not have effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

(4) *Item 4. Water.* Potable water from an approved source shall be made available in a temporary food establishment for food preparation, cleaning and sanitizing utensils and equipment and for hand-washing. Water need not be under pressure but shall come from approved sources, which include: commercially bottled drinking water, closed portable water containers, enclosed vehicular water tanks, on-premises water storage tanks, or piping, tubing or hoses connected to an approved source.

- a. An approved facility shall be provided for washing, rinsing, and sanitizing equipment and utensils. This facility must consist of at least three containers. Washing, rinsing, and sanitizing shall be conducted as specified in section 20-21.12(d) and (e) of this Code. Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a multi-compartment sink, may be used when there are special cleaning needs or constraints and the department has approved the use of alternative equipment.
- b. Hand-washing facilities shall include an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow, a wastewater container, soap, disposable towels, and a waste receptacle. Hand-washing facilities are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers.

(5) *Item 5. Wet storage.* The storage of nonpackaged food in contact with water or ice is prohibited. The storage of packaged food in contact with water or undrained ice is prohibited.

(6) *Item 6. Waste.* Liquid and solid waste shall be disposed of in accordance with all applicable laws.

(7) *Item 7. Floors.* ~~If graded to drain, a~~ A floor should be smooth and easy to clean such as concrete, machine-laid asphalt or plywood. ~~may be dirt, or gravel if it is~~ Dirt or gravel may be used if ~~it is~~ covered with mats, removable platforms, or duckboards, ~~or~~ Other suitable materials that are effectively treated to control dust and mud may be used if approved by the department ~~that are effectively treated to control dust and mud.~~

(8) *Item 8. Walls and ceilings of food preparation areas.* Walls shall be required by the health officer unless he determines, based upon the circumstances, that walls are not needed to protect the public from foodborne illnesses. Walls and ceilings of food preparation areas shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather and other contaminating agents. When required, screening material used for walls shall be at least 16 mesh to the inch.

(9) *Item 9. Food protection; general.* At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Foods for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices.

(d) *Alternatives; waivers.* The health officer may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a temporary food service establishment. An authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the health officer may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the temporary food service establishment. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

**Sec. 20-24. - Procedure when disease suspected among employees.**

(a) The health officer shall, when he has reasonable cause to believe that a food employee has possibly transmitted disease, may be infected with disease in a communicable form that is transmissible through food, or is affected with a boil, an infected wound or acute respiratory infection, secure a morbidity history of the suspected employee or make any other investigation as may be indicated and take appropriate action. The health officer may require any or all of the following measures as he finds necessary to protect the public's health:

- (1) The immediate exclusion of the employee from all food establishments;
- (2) The immediate closing of the food establishment concerned until, in the opinion of the health officer, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Securing of a confidential medical history of the employee suspected of transmitting disease or making other investigations, as deemed appropriate, and requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.
- (5) The implementation of special employee training for personnel of the establishment as provided in section 20-44 of this Code for the purpose of preventing the transmission of diseases.

(b) Based on the findings of the investigation as specified in this section and to control disease transmission, the health officer may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of hearing, or a hearing, if the order:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (3) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request; and
- (4) Provides the name and address of the health officer to whom a request for an appeal hearing may be made. Upon request, a hearing shall be provided within 72 hours.

(c) The health officer shall release an employee from restriction or exclusion if:

- (1) On the request of an employer or the health officer, a food employee or a person seeking food handling employment is examined by a licensed physician and receives a signed certificate stating that the physical examination has been performed and that to the best of physician's knowledge, the person examined did not, on the date of examination:
  - a. Have a transmissible condition of a communicable disease;
  - b. Have a local infection commonly transmitted through food handling;
  - c. Reside in a household in which there is a transmissible case of a communicable

foodborne disease; or

d. Appear to be a carrier of the communicable foodborne disease-causing organism;

(2) The employee was infected with *Salmonella typhi* and the food employee's stools are negative for *S. typhi* based on testing of at least three consecutive stool specimen cultures that are taken:

- a. Not earlier than one month after onset;
- b. At least 48 hours after discontinuance of antibiotics; and
- c. At least 24 hours apart.

If one of the cultures taken is positive, repeat cultures are taken at intervals of one month until at least three consecutive negative stool specimen cultures are obtained;

(3) The food employee was infected with *Shigella spp.* or *Escherichia coli* 0157:H7 and the food employee's stools are negative for *Shigella spp.* or Shiga toxin-producing *E. coli* 0157:H7 based on testing of two consecutive stool specimen cultures that are taken:

- a. Not earlier than 48 hours after discontinuance of antibiotics; and
- b. At least 24 hours apart; or

(4) The food employee was infected with hepatitis A virus and:

- a. Symptoms cease; or
- b. At least two blood tests show falling liver enzymes.

**Sec. 20-25. - Construction, remodeling of food establishment generally.**

(a) Wherever a food establishment or food establishment addition is constructed or remodeled and whenever an existing structure is converted to use as a food establishment, two sets of properly prepared plans and specifications for each construction, remodeling, or alteration shall be submitted to the health officer for approval before construction, remodeling, or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities. The health officer shall approve the plans and specifications if they meet the requirements of this article. No food establishment shall be constructed, remodeled, or altered except in accordance with plans and specifications approved by the health officer. If any changes are to be made concerning proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities after the first set of approved plans and specifications have been delivered to the owner or contractor, the changes shall be shown on revised plans and specifications, which shall be reviewed and approved by the health officer before the changes are made; then the approved changes shall be added to both original sets of plans and specifications.

(b) One set of the approved plans and specifications will be given to the owner or contractor responsible for the construction of the establishment. A second set of approved plans and specifications will remain on file with the health officer.

(c) Whenever plans and specifications are required under subsection (a) above to be submitted to the health officer, the health officer or his authorized representative shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this article.

(d) The requirements of this section shall be in addition to all applicable requirements of the Construction Code.

(e) The applicant shall pay to the department a nonrefundable plan review fee based on the project valuation for the review of plans required hereunder. The plan review fee shall be paid before plans are reviewed and is stated for this provision in the city fee schedule

In the event that construction, remodeling, or alteration began prior to approval of plans and specifications, the fees described in this subsection shall be doubled. In addition to the fees described in this subsection, there shall be a technology and administrative fee added to each plan review in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the plan review fee is paid.

(f) The applicant shall pay to the department the nonrefundable preoperational inspection fee ~~based on project valuation stated~~ for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the constructed, remodeled or altered space or area is occupied prior to the preoperational inspection approval, the applicant shall pay the nonrefundable inspection fee stated for this provision in the city fee schedule for each preoperational inspection performed while the constructed, remodeled or altered space or area is occupied. No permit shall be issued or renewed if there are any outstanding preoperational fees. {Ord. No. 2010-1016, § 2, 12-15-

(g) Whenever a food establishment changes ownership a preoperational inspection or inspections shall be completed prior to operation under the new ownership. The applicant shall pay to the department a nonrefundable preoperational inspection fee as stated for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the food establishment is in operation prior to the preoperational inspection approval, the nonrefundable inspection fee shall be as stated for this provision in the city fee schedule for each preoperational inspection performed. No permit shall be issued if there are any outstanding preoperational fees.

## **Sec. 20-26. Notices required.**

- (a) *Heimlich maneuver.* Every food service establishment where space is designed or designated for eating purposes shall have posted in a conspicuous place, easily accessible to all employees, or to all customers or to both all employees and all customers, a sign graphically depicting the Heimlich maneuver for dislodging food from a choking person.
- (b) *Presence of food service manager required.* Every food service establishment to which the provisions of division 3 of this article are applicable shall have posted in a conspicuous place, easily accessible to all employees, a notice that operation without a food service manager present is unlawful.



(c) *Foods containing any sulfite preservative.* Every food service establishment that sells or serves food containing any sulfite preservative shall provide notification of the use thereof to persons to whom the sulfite-containing food is sold or served by at least one of the following methods:

(1) Posting a sign listing the foods containing any sulfite preservative sold or served by the establishment in a place conspicuous to all persons to whom food is served or sold in the establishment. The sign shall conspicuously state that the foods contain a sulfite preservative;

(2) Listing each food containing any sulfite preservative on a menu or other written notice that is given to each person (other than children under the age of 12 accompanied by an adult) who buys or is served food in the establishment. The menu or other written notice shall clearly state that the foods containing a sulfite preservative do contain the substance; or

(3) Providing written notice on a label affixed to the container or wrapper of food containing any sulfite preservative that the food does contain the substance.

(d) *Sanitation posters.* Within each kitchen of each food establishment there shall be conspicuously posted in an area accessible to all employees thereof a poster that describes basic sanitation methods including, but not limited to, those relating to cross-contamination and temperature control. This requirement shall not apply to mobile food units or temporary food service establishments.

(e) *FOG poster.* Within each kitchen of each food establishment there shall be conspicuously posted in an area accessible to all employees thereof a poster that describes ordinance requirements of grease trap. This requirement shall not apply to mobile food units or temporary food service establishments.

(e f) *Form of sign.* All signs, notices and listings provided or posted pursuant to this article shall conform to the design specified therefore by the director of public health, including the size, colors, wording and any other elements specified by the director. The department may prepare signs in Spanish, English and other languages as the need may warrant and make them available for purchase at a price equivalent to the production cost thereof.

#### **Sec. 20-36. Food dealer's permit.**

(a) Except as permitted in subsection (e) of this section, no person shall operate a food establishment, other than a mobile food unit (as permitted in Section 20-37), who does not possess a valid permit issued to him by the health officer. The permit shall be known as a "food dealer's permit". Only a person who complies with the requirements of this article shall be entitled to receive or retain a food dealer's permit. A food dealer's permit shall only be valid for the location specified thereon and may not be transferred from place to place. A food dealer's permit shall become void upon the closing of any sale of the establishment. A valid permit shall be posted in view of the public in every food establishment and every temporary food service establishment. Permits for temporary

food service establishments shall be issued for a period of time not to exceed 21 consecutive days.

A temporary food dealer's permit shall not be required if:

(1) The temporary food service establishment is operated by a person who holds a valid food dealer's permit issued under this article;

(2) The operation of the temporary food service establishment is within the scope of his regulated and inspected activities as the holder of a food dealer's permit; and

(3) All food is prepared inside of the permitted establishment by the holder of the valid food dealer's permit and then served outdoors on the same premises.

All food dealer's permits shall remain the property of the department.

### **Sec. 20-37. Mobile food unit medallion.**

(a) Any person desiring to operate one or more mobile food units in the city ~~other than restricted operations mobile food units~~ shall obtain an individual medallion for each operating mobile food unit from the health officer. Each medallion will be issued unit-by-unit only after an inspection reveals satisfactory compliance with the provisions of section 20-22 of this Code. The medallions shall remain the property of the department.

(b) No person shall operate or cause to be operated any mobile food unit that does not possess a valid medallion issued by the health officer. ~~The medallion shall be known as a "mobile food unit medallion."~~

### **Sec. 20-38. - Fees; transfer of medallion.**

(a) At the time of issuance of an original food dealer's permit and each renewal thereof, the person requesting the permit shall pay to the health officer a permit fee for one complete year from the date of issuance, as well as the applicable technology and administrative fee. Except as otherwise provided, permit fees shall be determined by the total number of persons employed full-time or part-time by the food processing or food service establishment.

(b) Fee amounts shall be determined according to the city fee schedule, as follows:

(1) *Permit fees.* The nonrefundable annual fee for a food dealer's permit shall be based on the number of employees of the establishment to be licensed.

(1a) In addition to the permit fees described in this item, there shall be a technology and administrative fee payable at the time the food dealer's permit fee is paid.

(1b) Temporary food establishments, as defined, shall be charged a non-refundable base fee for each day that the permit is valid, provided, however, that the total fee for a temporary food service establishment while participating in an event with a duration of ten consecutive days or more at the same location shall be the same fee as for a duration of ten consecutive days. The

temporary food service permit fee including the applicable technology and administrative fee shall be paid at the time the application is submitted.

(2) *Mobile food unit or restricted operations mobile food unit medallion—Fee; transferability.* At the time of issuance of either an original medallion to operate a mobile food unit or a restricted operations mobile food unit and each renewal thereof, the person requesting the medallion shall pay to the health officer a-the respective fee for one complete year from the date of issuance according to the city fee schedule. Medallions are not transferable from one person to another nor from one mobile food unit to another mobile food unit. In addition to the permit fees described for the operation of a mobile food unit in this item a technology and administrative fee shall be payable at the time the mobile food unit medallion fee is paid.

(3) *Same—Replacement fee.* An individual who has lost a valid, current food dealer's permit or mobile food unit medallion may obtain a replacement from the health officer upon payment of the replacement fee.

(4) *Special investigative fee.* In addition to the permit fee or medallion fee as specified in item (1) above, there is hereby assessed the special investigative fee stated for this provision in the city fee schedule, which shall be payable for any renewal of a food dealer's permit or mobile food unit medallion if the renewal application is not received in the offices of the health and human services department in completed form and accompanied by the permit fee therefor on or before the business day after the date of expiration of the permit or medallion to be renewed. For purposes of this fee, any new permit issued to the same person(s) for a food establishment at the same location shall be deemed to be a renewal, unless the person(s) demonstrate to the health officer, by clear and convincing evidence, that the food establishment has not been operated since the prior permit expired. This investigative fee shall also be applicable in the event that the complete application including payment for a temporary food service establishment permit is not received at the department at least seven days prior to beginning of temporary food service operations as specified in paragraph 20-36 (b).

This special investigative fee is imposed to partially defray the additional inspection and administrative costs related to late renewals and applications. It shall not be considered to be a civil or criminal penalty, nor shall its imposition bar or constitute a defense to any prosecution for operation of a food establishment without a food dealer's permit.

(5) *Electronic monitoring system fee.* A person requesting a medallion for the operation of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit, or a fixed location mobile food unit, shall pay the electronic monitoring system fee stated for this provision in the city fee schedule for the maintenance, operation, and utilization of the electronic monitoring system.

(c) The fees otherwise required by this section shall not be imposed by the health officer for the issuance of a food dealer's permit to operate a temporary food service establishment within a city park if each of the following criteria is met:

(1) The temporary food service establishment is being operated by a community-based organization as part of a public gathering for which a permit has been issued under article III of

chapter 32 of this Code, and the director of parks and recreation has waived user fees for the gathering pursuant to section 32-69(f) of this Code;

(2) All persons responsible for organizing and working in the temporary food service establishment are unpaid volunteers; and

(3) All proceeds from the operation of the temporary food service establishment are retained to be used for the benefit of the community-based organization or are donated to the city.

The provisions of this subsection shall not be construed to excuse the community-based organization from obtaining a temporary food dealer's permit or from complying with any other applicable provision of this article.

(d) Food service establishments, except mobile food units, shall pay the nonrefundable annual fee stated for this provision in the city fee schedule for each interceptor to obtain a registration certificate, as provided in section 47-423 of this Code.

#### **Sec. 20-41. - Suspension.**

(a) The director of the health and human services department, or at the director's designation in writing, any assistant director ~~§~~, may suspend any food dealer's permit or any medallion to operate a mobile food unit, with notice as is reasonable under the circumstances, if the permit or medallion holder does not comply with the requirements of this article or section 21-244 or section 21-247(b) of this Code, or if the operation of the food processing or food service establishment or mobile food unit otherwise constitutes a substantial hazard to public health. Without exclusion of any other grounds, operation of a food establishment in violation of any provision of section 20-53 of this Code is in and of itself sufficient cause for a suspension. Suspension is effective upon service of the notice required by subsection (b) below. Where a permit or medallion is suspended, food processing and/or food service operations shall immediately cease.

(b) Whenever a permit or medallion is suspended, written notice shall be given to the permit or medallion holder or the person in charge or any employee or agent of the food establishment or mobile food unit. The notice shall set forth:

- (1) The specific conditions in the food establishment or mobile food unit that are in violation of this article or that constitute a substantial hazard to public health;
- (2) That a hearing will be held before a hearing officer;
- (3) The date, time and place of the hearing; and
- (4) That the permit or medallion holder may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

The hearing shall be held not later than ten days after the date the permit or medallion is suspended.

(c) Whenever a permit is suspended, it shall be physically removed from the premises by the health officer and retained at the department until the suspension has terminated.

(d) Whenever a medallion is suspended, it shall be physically removed from the mobile food unit in violation by the health officer.

(e) All hearings shall be conducted by a person designated by the director of health and human services, who shall be referred to as the hearing officer. The director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection of the food establishment or mobile food unit, or has prior knowledge of the allegations or circumstances discovered in the inspection or inspections except the person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the permit or medallion holder or the person in charge.

(f) All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to the hearings:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required.
- (2) Each party may present witnesses in his own behalf.
- (3) Each party has the right to cross-examine all witnesses.
- (4) Only evidence presented before the hearing officer at the hearing may be considered in rendering the order.

(g) If the permit or medallion holder fails to appear at the hearing at the time, place, and date specified, the city shall present sufficient evidence to establish a prima facie case showing violation of this article or conditions constituting a hazard to public health that formed the basis of the suspension of the permit or medallion.

(h) If the hearing officer finds that the food service establishment, food processing establishment or mobile food unit was, in fact, in violation of this article or that it constituted a hazard to public health, the hearing officer shall make written findings of fact and shall order the permit or medallion suspended until all violations of this article are corrected and any conditions constituting a hazard to public health are eliminated. A copy of the findings and order of the hearing officer shall be sent by certified mail, return receipt requested, to the permit or medallion holder.

(i) If the hearing officer finds that the public interest will be adequately protected by a warning or other penalties authorized under this article, he may reinstate the permit or medallion.

(j) Whenever the reasons for a suspension no longer exist, the permit or medallion holder or person in charge shall notify the health officer that the conditions under which the permit or medallion was suspended have been corrected and that an inspection is requested. The inspection shall be conducted as soon as possible after the request is received and in no event no later than three regular working days after the receipt of the request for inspection.

(k) When a mobile food unit medallion that has been suspended is reinstated, a new medallion shall be affixed to the unit at no extra cost to the owner or operator. A reinstated medallion shall include all of the same information as appeared on the medallion that was suspended.

#### **Sec. 20-52. - Program established.**

There shall be a program of food service manager's certification conducted under the direction of the health officer. The program shall have as its primary goal the training of persons within the food service industry in safe food handling practices, including knowledge of the provisions of this article. Except as otherwise provided in this division, training shall be accomplished by means of a special course that will

be made available to those persons seeking certification. The health officer may make this course available on-line. Certification shall be provided after all requirements of this division have been met as determined by the health officer.

**Sec. 20-54. - Application for certification; training course generally.**

(a) Any person desiring ~~a an original or renewal~~ food service manager's certification shall make written application for certification on forms provided by the health officer. The application shall include ~~;~~, but not be limited to:

- (1) The applicant's full name, post office address, and telephone number;
- (2) The gender of the applicant;
- (3) The applicant's Texas driver's license or state identification card or other valid form of photographic identification.
- (4) The name, address, and telephone number of the establishment where the applicant is currently employed;
- (5) The signature of the applicant; and
- (6) ~~If the application is for a certificate renewal, proof of current City of Houston certification as approved under this division.~~ Date of birth of the applicant.

(b) A completed application for food service manager's certification shall serve as a request to obtain a food service manager's certificate by training, reciprocity, or optional testing under section 20-63 of this Code.

~~(c) Applications for renewals of certifications must be received by the department, accompanied by the applicable fee, and the applicant must attend the renewal course or complete the optional testing, on or before the sixtieth day following the expiration of the City of Houston certification that is to be renewed. Otherwise, the certification shall not be subject to renewal, and the applicant will be required to apply for an initial certification.~~

~~(d)~~ (c) All applications for food service manager's certification must be accompanied by the appropriate fee as set forth in this division.

~~(e)~~ (d) The health officer may deny an application for a food service manager's certification if the applicant knowingly makes any false, fraudulent, or unlawful statement on the application.

**Sec. 20-55. - Duration of certification course; passing grade.**

(a) The special course of training for food service manager's certification shall be conducted at an appropriate length of time to cover course material, at least 15 hours in length for initial certifications and at least seven hours in length for renewal certifications.

(b) Courses will be scheduled periodically to allow all qualified individuals the opportunity for training.

(c) All persons completing the applicable course of training for food service manager's certification shall be required to demonstrate by means of an examination that they possess a minimum essential knowledge of safe food handling practices, including an acceptable knowledge of this article. A passing

score for this examination shall be at least 70 points out of a possible 100.

(d) If an applicant ~~for food manager's certification for initial certification or for renewal certification~~ fails to pass the required examination ~~after taking the applicable training course~~, he ~~must~~ may take the ~~initial~~ certification course before taking another examination. In order to take the training course an applicant must submit another completed application accompanied by payment of the full applicable fee for an initial application.

#### **Sec. 20-57. - Fees.**

##### Fees for food service manager's certification are as follows:

(1) *Food service manager's certification.* Except where another fee amount is established in this division, the application fees stated for this provision in the city fee schedule shall be required to be paid to the health officer at the time of filing of an application for ~~an initial certification for renewal~~. In addition to the food service manager's certification application fee there shall be a technology and administrative fee added to each food service manager's application in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the food service manager's application is paid. The application and technology and administrative fees are nonrefundable ~~unless incorrectly charged and/or paid more than once.~~

(2) *Replacement of certification card.* An individual who has lost a valid, current food service manager's certification card may obtain a replacement wall certificate and corresponding certification card from the health officer for the fee stated for this provision in the city fee schedule.

#### **Sec. 20-58. - Expiration.**

A food service manager's certification shall be valid for a period of five years from the date of its issuance except as specified in Section 20-63. ~~Unless a duly completed application for renewal is timely filed as provided in section 20-54(c) of this Code, a certification shall not be subject to renewal. An individual may obtain a new certificate by completing the course, or completing the examination, or by reciprocity in accordance with sections 20-54 (b) and 20-63. The filing of an application for renewal shall not be construed to extend the expiration of a certification, and the filing of an application for renewal shall not constitute any authority to act as a food service manager pending the actual issuance of the renewal certification.~~

#### **Sec. 20-65. Group Residences.**

A group residence shall comply with the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the group residence and may prohibit the sale or distribution of some or all potentially hazardous foods where the action is reasonably necessary to protect the public from foodborne illness. A group residence operator may submit a written request for a variance from any requirements of this article and the health officer may grant a variance by modifying or waiving any of the requirements of this article if in the opinion of the health officer a health hazard or nuisance will not result from the variance as specified in Sec. 20-19 (e). The group residence permit holder shall ensure that the group residence is in full compliance with this article at all times as well as with the conditions of any variance granted under subsection (e)(2) as specified in Sec. 20-19 (d).

#### **Sec. 20-161. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to



them in this section, except where the context clearly indicates a different meaning:

*Certified farmers market* means a farmers market that has been certified by the Texas Department of Agriculture pursuant to Subchapter D of Title 4 of the Texas Administrative Code.

*Department* means the department of health and human services.

*Director* means the director of the department.

*Establishment* means any building, structure or stand where only farm produce is sold or offered for sale, or, within a certified farmers market, a building, structure or stand where only farm products are sold or offered for sale.

*Farm produce* means herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes and other edible plant materials in their natural state.

*Farm products* means farm produce, shelled peas or legumes, yard eggs, and packaged foods processed or manufactured by a vendor in a licensed food establishment and packaged and labeled according to all applicable laws.

*Food* shall have the meaning ascribed in article II of this chapter.

*Market manager* means a person who is designated as the person-in-charge of a certified farmers market.

*Peddler* means all persons, as well as their agents and employees, who engage in the temporary or transient business in the city of selling or offering for sale farm produce, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof, or who sell or offer for sale upon the public streets from any vehicle, conveyance or instrumentality making delivery at the time of sale of such farm produce and who have no established place of business for the sale and distribution of such farm produce within the city.

*Potentially hazardous food* shall have the meaning ascribed in article II of this chapter.

*Sampling* means the demonstration or promotion of a food and its characteristics via the on-site preparation and offering of the food in small servings which cannot be sold and which may not consist of a whole meal, an individual portion or a whole sandwich.

*Temporary* or *transient* means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which such business is to be operated or conducted.

*Vendor* means any person who sells or offers for sale farm products or engages in sampling in a certified farmers market.

*Yard eggs* means ungraded shell eggs from a producer defined in Chapter 15 of Title 4 of the Texas Administrative Code.

## **Sec. 20-162. - Requirements as to sales establishments.**

(a) Each establishment from which farm produce is displayed, sold or offered for sale shall be provided

with floors constructed of a substance or material that is capable of being washed, cleaned and kept in a sanitary condition. The establishment shall have a roof; provided, however, this particular provision pertaining to a roof shall not apply to trucks, wagons, any other conveyances or other vehicles. The farm produce contained in such establishment shall be kept, stored or displayed on a counter or structure which is not less than 18 inches above the floor (with the exception of watermelons). There shall be available to each of such establishments running water and rest room facilities.

(b) Wild mushrooms, if offered for sale, must conform to requirements of Section 20-21.1 (b) (14) of this Code.

**Sec. 20-177. - Issuance or denial generally; term.**

Upon receiving the application for a license under this division, the health officer shall make an inspection of ~~the~~ any vehicles to be used by the applicant or of the establishment for which a license is desired, and if such establishment or vehicles comply with the provisions and requirements of this article, as well as other ordinances of the city which pertain to the operation of such establishment or vehicles, then the health officer shall approve the application upon the payment of the license fee and a license shall be issued to such applicant which shall be effective for one year from the date of issuance. In the event the health officer shall determine that such establishment of the applicant or any vehicle does not comply with the provisions of this article and other ordinances of the city which pertain to the operation of such establishments or vehicles, then the director shall disapprove such application.

(Code 1968, § 19-453; Ord. No. 07-1051, § 3, 9-12-07)

**Sec. 20-189. - Sanitation requirements.**

All vendors shall comply with the following sanitation requirements:

- (1) *Refrigeration.* Mechanical refrigeration shall be provided as required in section 20-21.3(b)(1) of this Code for the storage of all potentially hazardous foods. The use of dry ice or cold packs as a substitute for mechanical refrigeration of potentially hazardous foods shall be acceptable only if used for six hours or less during a single day.
- (2) *Equipment.* All equipment, including hot/cold food storage facilities must meet the requirements of article II of this chapter regarding food storage and equipment design and fabrication.
- (3) *Toilet facilities.* Approved toilet facilities shall be available at all times for vendors, their employees, and volunteers. All toilet rooms approved for use by vendors, employees and workers shall conform to the requirements of section 20-21.18 of this Code.
- (4) *Hand-washing.* A hand-washing sink provided with hot and cold water under pressure and tempered through a mixing valve shall be provided in or immediately adjacent to each toilet room used by vendors. A supply of soap and paper towels or other approved hand-drying device shall be provided adjacent to each hand-washing sink.
- (5) *Food protection; general.* At all times, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage. Delivery vehicles or other equipment used for food transportation shall be kept clean and shall be constructed so as to

protect the food from contamination. Food samples for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices. Clean, disposable plastic gloves shall be worn by the vendor during sampling. Food intended for sampling shall be prepared, handled, and dispensed so as to be wholesome and safe for human consumption.

(6) *Wet storage.* The storage of unpackaged and packaged food in contact with water or ice is prohibited, except that produce and packaged farm products may be stored in contact with continuously drained ice obtained from an approved source.

(7) *Waste.* Liquid and solid waste shall be disposed of in accordance with all applicable laws.

(8) *Garbage and rubbish.* All garbage and rubbish shall be stored and disposed of in a manner approved by the health officer.

(9) *Live animals.* No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored, displayed or held, excluding patrol dogs or ~~support animals~~ service animals when used in the manner specified in section 20-21.28(f) of this Code.

#### **Sec. 20-190. - Sampling operations.**

All vendors conducting sampling shall comply with the following sanitation requirements:

(1) *Limited preparation.* Only those potentially hazardous foods approved by the health officer and foods requiring limited preparation shall be prepared, displayed, served or sampled.

(2) *Temperature maintenance.* Potentially hazardous foods requiring limited preparation shall be served and maintained at the internal temperature of 41°F (5°C) or below or ~~140°F (60°C)~~ 135°F (57°C) or above in facilities that meet the requirements of this article except for shell eggs, as described in section 20-21.1(b)(3), which shall be stored at 45°F (7°C) or below according to all applicable laws. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.

(3) *Disposal.* All food samples shall be disposed within four hours after beginning of the operation, if not served or consumed.

(4) *Food service manager's certification.* The market manager or the operator of the establishment shall attend the food service manager's certification course in accordance with sections 20-52 and 20-53 of this Code. At least one certified manager shall be present when sampling operations are being conducted.

(5) *Water.* Vendors shall have sufficient hot and cold potable water for cleaning foods and for cleaning and sanitizing equipment and utensils.

(6) *Single use articles.* Only single use articles as defined in article II of this chapter shall be provided for use by consumers.

(7) *Hand-washing.* An approved facility for employee hand-washing, consisting, at a minimum, of warm, clean running water, soap, and individual paper towels or other approved hand drying device shall be provided near the vendors' establishments.

(8) *Single-use gloves.* Single-use gloves shall be used when the samples are being cut or prepared. Single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food. They shall be used for no other purpose and discarded when interruptions occur in the operation or when damaged or soiled.

(9) *Hair restraints.* While handling food or utensils, vendors shall wear effective hair restraints and clothing that covers body hair to prevent the contamination of food or food-contact surfaces as specified in Sec. 20-21.8 (f).

~~(10)(8)~~ *Equipment and utensil cleaning and sanitation.* An approved facility shall be provided for washing, rinsing and sanitizing of equipment and utensils used in the preparation and service of samples. The facility must consist of at least three containers or compartments, each of adequate size so as to permit the total immersion of all utensils used in the vendor's establishment. Washing, rinsing and sanitizing shall be conducted as specified under subsections (d) and (e) of section 20-21.12 of this Code.

~~(11)(9)~~ *Walls and ceilings.* Walls and ceilings, where required by the health officer to protect food from contamination and to protect the public from food borne illness, shall be made of wood, canvas, or other similar material that protects the establishment from the weather and other contaminating agents. When required, screening material used for walls shall be at least 16-mesh to the inch.

#### **Sec. 20-193. - Fees.**

(a) At the time of application for a certified farmers market license and each renewal thereof, the applicant shall pay to the health officer a nonrefundable annual fee, which shall be based on the number of vendors. The fee ~~shall~~ is stated for this provision in the city fee schedule.

(b) Replacement fee. A license holder who has lost his valid, current certified farmers market license may obtain a replacement from the health officer for the fee stated for this provision in the city fee schedule.

#### **Sec. 20-200. - Definitions.**

As used in this article, the following words and phrases shall have the meanings set forth in this section unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense:

*Bulk food* means any food that, when it is dispensed to the customer, is not packaged, wrapped, or otherwise enclosed.

*Condiment* means any food, such as salt, pepper, mustard and ketchup, that is used to enhance the flavor of other food.

*Commissary* means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored with the intent that some or all of the items will be used in vending machines. The term shall not be construed to include an area or conveyance at a vending machine location that is used for the temporary storage of packaged food or beverages.

*Controlled location vending machine (limited service vending machine)* means a vending machine that:

- (1) Dispenses only nonpotentially hazardous packaged food;
- (2) Is designed so that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
- (3) Is intended for and used at locations in which protection is assured against environmental contamination.

*Corrosion-resistant* means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

*Easily cleanable* has the meaning ascribed in section 20-18 of this Code.

*Employee* means the permit holder, person in charge, person having the supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment, and any other person who handles any food that is intended to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations, or who otherwise services or maintains the machines.

*Equipment* means vending machines, ovens, tables, counters, sinks, and similar items, other than utensils used in vending operations.

*Filth* means dust, dirt, insect excretions or other secretions, insect body parts, rodent hairs or excretions, feathers, or any other foreign or injurious contamination.

*Food* means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, including chewing gum.

*Food-contact surfaces* means those surfaces with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back into a food or onto a surface normally in contact with food.

*Garbage* means every accumulation of animal, vegetable, and other waste matter that attends the preparation, handling, consumption, storage, or decay of plant and animal matter, including meats, fish and seafoods, birds, fruit, vegetable or dairy products and the waste wrappers or containers thereof.

*Hermetically-sealed container* means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

*Law* means all applicable federal, state, and local statutes, ordinances, and regulations.

*Machine location* means the room, enclosure, space or area where one or more vending machines are installed and operated.

*Operator* means any person who takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

*Packaged* means bottled, canned, cartoned, or securely bagged or securely wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include a wrapper, carry out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

*Person* includes an individual, partnership, corporation, association, or other legal entity.

*Potable water* shall have the meaning ascribed in section 20-18 of this Code.

*Potentially hazardous food (PHF)* shall have the meaning ascribed in section 20-18 of this Code.

*Poultry* shall have the meaning ascribed in section 20-18 of this Code.

*Readily accessible* means exposed or capable of being exposed for cleaning and inspection without the use of tools.

*Restrict* shall have the meaning ascribed in section 20-18 of this Code.

*Safe materials* means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used, they are "safe" only if they are used in conformity with regulations established pursuant to Section 409 or Section 706 of the act. Other materials are "safe" only if they are not food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformity with regulations issued under the act.

*Safe temperatures* for potentially hazardous food means temperatures of 41°F (5°C) or below or 135°F ~~(60°C)~~ (57°C) or above.

*Sanitized* means having received effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

*Sealed* means free of cracks or other openings that permit the entry or passage of moisture.

*Single-service articles* means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one-time, one-person use, after which they are intended for discard.

*Utensil* means shall mean any multi-use or single-service food-contact implement or container used in the storage, preparation, transportation, dispensing, sales or service of food, such as kitchenware or tableware; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

*Vending machine* means any self-service device that, upon insertion of a coin, paper currency, token, card or key or by optional manual operation, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation. It shall also include self-service dispensers equipped for coin, paper currency, token, card, or key operation and optional manual operation. Unless otherwise stated, vending machine includes controlled location vending machines.

*Vending machine location* shall mean the room, enclosure, space, or area where one or more vending machines are installed or operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

**Sec. 20-203. - Temperatures.**

The temperature of potentially hazardous foods shall be 41°F (5°C) or below or ~~140°F (60°C)~~ 135°F (57°C) or above at all times, except as otherwise provided in subsection 20-204(g) of this Code.